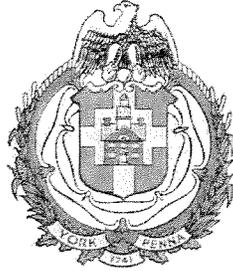


# Council of the City of York, Pennsylvania

Carol Hill-Evans, President of Council  
Henry Hay Nixon, Vice President of Council  
Renee S. Nelson, Member of Council  
Michael Helfrich, Member of Council  
David Satterlee, Member of Council



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## AGENDA

November 19, 2013  
Public Comment 6:30 p.m.  
Legislative Session 7:00 p.m.

I. Public Comment: 6:30 p.m. to 7:00 p.m.

*Disclaimer: Pursuant to the Sunshine Act, the City of York will only record citizens' names and the subject of testimony provided during the public comment period. Should you request information or desire a response to your testimony, you must provide the City Clerk or Council President with your contact information. Information you provide will be used by City of York agents to process your request. Your name, address and request for information may be entered into the City of York complaint tracking system.*

City Council welcomes public comment on agenda items and on City-related issues not on the agenda. Under Council's adopted Rules and Procedures, comment on agenda items occurs during Council's regular 7:00 p.m. meeting. Comment on non-agenda items begins at 6:30 p.m., with Council sitting as a General Committee. Persons wishing to speak on non-agenda items should sign up with the City Clerk before the 6:30 Public Comment committee meeting. Each speaker shall have up to five minutes to speak. To assure access to all participants, the presiding officer may reduce the time limit down to three minutes if the number of speakers who have signed up would extend the total comment period beyond 30 minutes and/or may resume public comment after Council's legislative session has adjourned. Council's Rules, available from the City Clerk, are also on display in Council Chambers and on Council's web page at [www.yorkcity.org](http://www.yorkcity.org).

II. Call Legislative Meeting to Order: 7:00 p.m.

III. Roll Call

IV. Pledge of Allegiance

*I pledge Allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, Indivisible, with Liberty and Justice for All.*

V. Action on previous meeting Minutes of **November 6, 2013**.

VI. Correspondence and/or Announcements

VII. Presentations, Proclamations and Awards: None

VIII. Meetings Scheduled:

- **Monday, November 25, 2013 at 6:00 pm:** Council to hold a Public Hearing on Bill No. 20, a Bill creating the City Revitalization and Improvement Zone Authority (CRIZ). Council will vote on the legislation in Special Session immediately following the public hearing.
- **Tuesday, November 26, 2013 at 6:00 pm:** Council Committee meeting scheduled to discuss items for December's legislative agenda.
- **Tuesday, December 3, 2013 at 7:00 pm:** Council's regularly scheduled legislative session. Public comment begins at 6:30 p.m.

- **Tuesday, December 10, 2013 at 6:00 pm:** Council will hold public hearings on the 2014 Proposed York City Budget and will receive presentations from the Controller, Treasurer, Mayor, Human Relations Commission, Solicitor's Office, Public Works and Economic & Community Development. Public comment will be received at the end of the hearing.
- **Wednesday, December 11 at 6:00 pm:** Council will hold public hearings on the 2014 Proposed York City Budget and will receive presentations from Business Administration, Fire Department and Police Department. Public comment will be received at the end of the hearing.
- **Tuesday, December 17, 2013 at 11:00 am:** Public Hearing tentatively scheduled to receive testimony on an application for an Economic Development Liquor License. This meeting is not yet confirmed.
- **Tuesday, December 17, 2013 at 7:00 pm:** Council's regularly scheduled legislative session. Public comment begins at 6:30 p.m.
- **Wednesday, December 18, 2013 at 6:00 pm:** Council Committee meeting scheduled to discuss items for January's legislative agenda.

IX. Status of Prior Committee Referrals:

- **Booting:** A Bill amending Article 507 "Booting" of the Codified Ordinances remains in committee.
- **Mobile Food Vendors:** A Bill amending Article 333 "Peddlers & Solicitors" of the Codified Ordinances to increase the number of mobile food vendor licenses authorized to operate in Continental Square remains in committee.

X. Legislative Agenda: (Order of Business – Action on Subdivision/Land Development & HARB Resolutions; Final Passage of Bills/Resolutions; New Business.)

**Subdivision / Land Development / HARB**

1. Resolution No. 88 - A Resolution  
Accepting the recommendations of HARB.  
Introduced by: Henry Hay Nixon  
Originator: Historic York
2. Resolution No. Pulled - A Resolution  
Approving a reverse subdivision plan submitted by Sweet City Cinema. (To combine 8 lots into 4 at 260 N. Beaver St.)  
Introduced by: Renee S. Nelson  
Originator: Economic & Community Development (PP&Z)

**Final Passage of Bills / Resolutions**

3. Final Passage of Bill No. 18 – A Bill  
Establishing permit fees for Article 1126 "Regulation of Portable Toilets."  
Introduced by: Carol Hill-Evans  
Originator: Economic & Community Development (PP&Z)  
Note: A Resolution establishing fees associated with this ordinance will be discussed at Council's November 26<sup>th</sup> committee meeting.

**New Business**

NONE

**SUPPLEMENTAL AGENDA**

4. Resolution No. Referred to 11/26/13 Committee - A Resolution  
Establishing the 2014 Salary for the Public Works Director.  
Introduced by: Michael Ray Helfrich  
Originator: Mayor
5. Resolution No. Referred to 11/26/13 Committee - A Resolution  
Establishing the 2014 Salary for the Business Administrator.  
Introduced by: Michael Ray Helfrich  
Originator: Mayor
6. Introduction of Bill No. 19 (Will be on 12/17/13 Agenda) - A Bill  
Adopting the 2014 York City Budget  
Introduced by: Michael Ray Helfrich  
Originator: Mayor / Business Administration
7. Introduction of Bill No. 20 (Will be on 12/17/13 Agenda) - A Bill  
Fixing the 2014 Tax Rate.  
Introduced by: Michael Ray Helfrich  
Originator: Mayor / Business Administration

- XI. Requests for Future Meetings
- XII. Council Comment
- XIII. Administration Comment
- XIV. Adjournment
- XV. Resumption of Public Comment Period (at the discretion of the presiding officer)

This agenda is subject to change before and during the meeting for consideration of such other business Council may desire to act upon including items of business deferred from previous Council meetings.

If you are a person with a disability and plan to attend the public meeting, please call 849-2883 if any accommodations are needed to participate in the proceedings. Persons with hearing impairments may contact the Deaf Center at TDD 848-6765 for assistance.



Council of the City of York, PA  
Session 2013  
Resolution No. 88

*Carol Hill-Evans*

Introduced by: **Carol Hill-Evans**

Date: **November 19, 2013**

**BE IT RESOLVED**, by the Council of the City of York, Pennsylvania, and it is hereby resolved by the authority of the same as follows:

Council hereby approves a Certificate of Appropriateness to be certified to and forwarded by the City Clerk to the York City Building Inspector who is hereby authorized to issue permits for work to be covered in the following application(s) as recommended and approved by the Historical Architectural Review Board:

1. **Carey McCartney** for work to be done at **204 N. George St.**
2. **Joseph Kelly** for work to be done at **121 W. Market St.**
3. **Keith Patterson** for work to be done at **120 S. Newberry St.**
4. **Eric Hess** for work to be done at **373 E. Market St.**
5. **Carol Kauffman** for work to be done at **506 S. George St.**
6. **Heather Post** for work to be done at **303 E. Market St.**
7. **Scott Pittman** for work to be done at **34 N. Cherry Lane.**
8. **Craig Zumbrun** for work to be done at **315 W. King St.**
9. **Nicole Shaffer** for work to be done at **320 E. Market St.**
10. **Josh Hankey** for work to be done at **155 S. Queen St.**
11. **Jodi Bauhof** for work to be done at **22-24 N. George St.**

The foregoing work to be done in accordance with plans and specifications approved by the Historical Architectural Review Board.

Passed Finally: November 19, 2013

By the following vote:

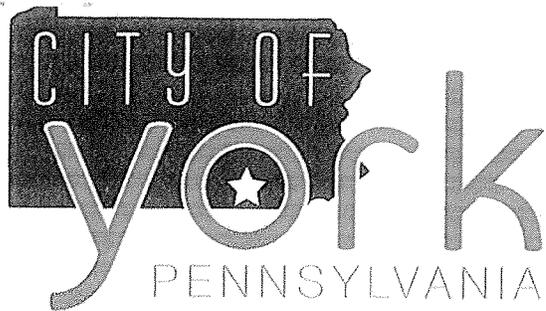
YEAS: Helfrich, Satterlee, Nelson, Hill-Evans - 4

NAYS: None.

*Carol Hill-Evans*  
\_\_\_\_\_  
Carol Hill-Evans, President of Council

ATTEST:

*Dianna L. Thompson-Mitchell*  
\_\_\_\_\_  
Dianna L. Thompson-Mitchell, City Clerk



**York Historical Architectural Review Board  
Agenda**

**5:30 PM Wednesday, November 6, 2013**

**25 North Duke Street, York, PA 17401**

- I Welcome (5:30pm):** John Fox, HARB Chair
- II Agenda (5:31 – 5:32pm):** Additions or changes to the agenda
- III Minutes (5:33 – 5:35pm):** Approve minutes from October 2, 2013 HARB meeting
- IV Cases (5:36 – 7:30pm):**
- 0-1. 204 North George Street – A request by Carey McCartney for a Certificate of Appropriateness to install a new wall sign of individual stainless channel letters with goose neck lighting and install a new panel on the existing monument sign.
- 0-2. 121 West Market Street – A request by Joseph Kelly for a Certificate of Appropriateness to install an artistic starburst on the front façade.
- 0-3/3/13  
Prop. Selections*  
0-3. 120 South Newberry Street – A request by Keith Patterson for a Certificate of Appropriateness to replace the second floor balcony at the rear of the property in kind.
- 0-4/1  
Restoration*  
0-4. 373 East Market Street – A request by Eric Hess for a Certificate of Appropriateness to replace the cedar shingle roofing with GAF Timberline architectural shingles.
- 0-5. 506 South George Street – A request by Carol Kauffman for a Certificate of Appropriateness to install an ADA ramp on the north side of the building with an associated new opening and door.
- 0-6/6  
Restoration*  
0-6. 303 East Market Street – A request by Heather Post for a Certificate of Appropriateness to replace the slate roof with GAF architectural shingles.
- 0-7. 34 North Cherry Lane – A request by Scott Pittman for a Certificate of Appropriateness to install LED stringer lighting between Central Market and the Strand above the lane.
- 0-8. 315 West King Street – A request by Craig Zumbrun on behalf of the Housing Authority for a Certificate of Appropriateness for a renovation including brick repair, stair repair/replacement in kind, repointing and minor repairs throughout.

9. 320 East Market Street – A request by Nicole Shaffer for a Certificate of Appropriateness to install exterior signage.

10. 155 South Queen Street – A request by Josh Hankey for a Certificate of Appropriateness to scrape and paint and repair the existing storefront and install new windows and a new door and light fixture.

22-24 North George Street – A request by Jodi Bauhof for a Certificate of Appropriateness to install exterior signage.

**V Other Business**

**VI Adjourn (7:30pm)**



**York Historical Architectural Review Board**  
**Meeting Minutes**  
**DRAFT**

A meeting of the York Historical Architectural Review Board was held on Wednesday, November 6, 2013 at 5:30 PM at 25 North Duke Street, York, PA.

Members in attendance included John Fox, Chair; Dennis Kunkle, Vice Chair; Justine Landis; Craig Zumbrun; Mark Shermeyer; Robyn Pottorff, Genevieve Ray, and HARB Consultant Alycia Reiten.

Absent: Dave Redshaw, Justine Landis, Teresa Johnescu, Matt Argabright

On a motion by Mark Shermeyer, second by Dennis Kunkle the board voted 6-0 to *Approve* the minutes of the October 2, 2013 HARB meeting.

The following cases are forwarded to York City Council with the recommended actions:

1. 204 North George Street – A request by Carey McCartney for a Certificate of Appropriateness to install a new wall sign of individual stainless channel letters with goose neck lighting and install a new panel on the existing monument sign.  
Points of Discussion
  - The application was presented by Carey McCartney to install an aluminum panel sign with pin mounted letters that will be clipped into the mortar. Also proposed is green aluminum gooseneck lighting and re-lettering the existing monument sign.

*On a motion by Mark Shermeyer, second by Genevieve Ray, the board voted 6-0 to approve the application as presented.*

2. 121 West Market Street – A request by Joseph Kelly for a Certificate of Appropriateness to install an artistic starburst on the front façade.

#### Points of Discussion

- The application was presented by Joseph Kelly to install an aluminum starburst artistic element to the front façade of the property. It will be made of ½” aluminum.
- Mark Shermeyer indicated the building is a Post Modern addition which is not a contributing resource. Discussion continued about the previous artistic items added.

*On a motion by Genevieve Ray, second by Craig Zumbrun, the board voted 6-0 to approve the application as presented.*

3. 120 South Newberry Street – A request by Keith Patterson for a Certificate of Appropriateness to replace the second floor balcony at the rear of the property in kind.

#### Points of Discussion

- The application was presented by Keith Patterson. He described the balcony at the rear which has a lattice rail and plywood floor which is rotted and sagging. He proposed to replace the lattice and 2x4 railing in kind with tongue and groove flooring. He also proposed installing a 6x6 post to the ground for additional support. New posts will be installed for the existing posts, and wood will be used for the lattice and railings.
- Genevieve Ray suggested consideration of plain square balusters because lattice is not appropriate.
- The applicant stated that the owner wanted to put back the lattice that was there.
- Discussion ensued about the railing system and it was suggested, and agreed by the applicant to install a 1” square rail system instead.

*On a motion by Mark Shermeyer, second by Genevieve Ray, the board voted 6-0 to replace the balcony using a plough top rail, 1¼” square balusters, and sloped bottom rail with molding numbers to be provided by staff, remaining features to be replaced in kind.*

4. 373 East Market Street – A request by Eric Hess for a Certificate of Appropriateness to replace the cedar shingle roofing with GAF Timberline architectural shingles.

#### Points of Discussion

- The application was presented by Eric Hess. He described the proposal to replace the existing cedar shingles with GAF Timberline asphalt shingles in the shingle color. He explained that the existing shingles are rotten and there are holes throughout.
- Marie Rolander of Reinike Place asked the applicant who he was. Mr. Hess explained and that he and his wife are helping the elderly homeowner.
- Ms. Rolander expressed her opinion that the front roof is not in bad shape so it should be saved.
- Joan Burgaser stated that the building is the oldest on the block and provided examples of similar type repairs. She requested that the replacement be done using original materials but if not possible that they then use Certainteed replacement roofing.

- The applicant explained that it is not economically feasible to use original materials for replacement and indicated the preference for the GAF as applied for and referenced other examples in the block where the same material is used.
- John Fox asked the applicant to look at the Certainteed product but if it exceeds the budget he recognizes that the work might not get done and the deterioration would continue.
- Discussion continued about roofing options including the dormers to be replaced with a rubber membrane or metal.

*On a motion by Craig Zumbrun, second by Mark Shermeyer, the board voted 6-0 to approve the application as submitted with the stipulation that the dormer roofing be rubber membrane including the option to use Certainteed instead of GAF if desired.*

5. 506 South George Street – A request by Carol Kauffman for a Certificate of Appropriateness to install an ADA ramp on the north side of the building with an associated new opening and door.

Points of Discussion

- The application was presented by Carol Kauffman on behalf of Crispus Attucks. The proposal is to install a handicap access ramp to meet ADA requirements for a new program. The access includes creating an opening in the north wall next to the existing window, behind the existing fence. The existing gate will be moved toward the street to allow the ramp to fit, and the fencing will be replaced in kind. Discussion regarding the replacement fence continued.
- Discussion regarding the door for the new opening and ADA requirements including a crash bar took place. The applicant proposed a solid panel metal door and upper glass.

*On a motion by Craig Zumbrun, second by Genevieve Ray, the board voted 6-0 to approve the application as presented with the stipulation that the replacement fence be dog-eared or flat top.*

6. 303 East Market Street – A request by Heather Post for a Certificate of Appropriateness to replace the slate roof with GAF architectural shingles.

Points of Discussion

- The application was presented by Heather Post. The existing slate roof is deteriorated and crumbling. The applicant proposed to replace with GAF Timberline in grey. The board discusses the existing slate pattern which is very regular and the opportunity for Certainteed symphony as an option.
- Joan Burgasser stated her opinion that the front portion of the roof is not seriously deteriorated and that they should look at repair using a reputable contractor that is familiar with slate. The applicant said they had Gangloff Roofing out and he is

knowledgeable in slate and that it is disintegrating. Ms. Burgasser stated that the replacement roofing should be Certainteed.

*On a motion by John Fox, second by Robyn Pottorff the board voted 6-0 to approve the request as presented including the option to use Certainteed instead of GAF if desired.*

7. 34 North Cherry Lane – A request by Scott Pittman for a Certificate of Appropriateness to install LED stringer lighting between Central Market and the Strand above the lane.

Points of Discussion

- The application was presented by Jeff Lau and Scott Pittman to install string lights above the Cherry Lane alley to make it a more inviting atmosphere. The stringer lights would be connected to the Central Market, the Strand and the Codo buildings. The applicant said he has discussed with each and they are all willing to have the attachments.
- Discussion ensued related to the provisions of consideration such as who pays the electric bill and the height which must be enough to allow tractor trailers to still access the alley safely.
- The stringer will start at Philadelphia Street and zig-zag back and forth to the buildings. The applicant said the system will be attached to the brick with epoxy and steel anchors.
- Mark Shermeyer explains that the attachments shall not be to the brick but the mortar because mortar can be repaired but the brick cannot. He also states that he thinks it will make the space more interesting.

*On a motion by Mark Shermeyer, second by Craig Zumbrun, the board voted 6-0 to approve the application as presented with the stipulation that the fixtures be attached to the mortar not the brick of every building and any epoxy used match the mortar of the particular building to which it is attached.*

8. 315 West King Street – A request by Craig Zumbrun on behalf of the Housing Authority for a Certificate of Appropriateness for a renovation including brick repair, stair repair/replacement in kind, repointing and minor repairs throughout.

Points of Discussion

- The application was presented by Craig Zumbrun and Eldon Stoltzfus. They described the existing condition of the exterior of the building which is in very poor shape. The brick is a poor quality composition and is spalling and deteriorating throughout. The west wall is thought to have been a party wall at some point which was never intended to be exposed to the outside but it is the same brick as what is on the rear of the building.
- Mr. Stoltzfus explains that the stair wall on the east side is the worst. The brick under the stairs is spalling terribly and moisture is penetrating through the brick to the interior walls. He also explains that the front façade (south wall) needs repointing. It

is his recommendation that the project address the whole building including the rear roof which needs recoating. The west wall is too seriously deteriorated to just repoint because of the spalling bricks. He suggests a drivet-stucco application.

- John Fox asks about an epoxy application and Mr. Stoltzfus explains the challenge with an epoxy that any moisture that gets behind the epoxy will cause the brick faces to literally fall off. He further explains the option of a silicone composition as an alternative but it must be applied every two years.
- Discussion continues related to options for the brick and mortar repairs and additional treatments.
- Mark Shermeyer stated that there is no other alternative for soft deteriorated brick.

*On a motion by John Fox, second by Genevieve Ray, the board voted 5-0 to approve the application as presented.*

9. 320 East Market Street – A request by Nicole Shaffer for a Certificate of Appropriateness to install exterior signage.

Points of Discussion

- The application was presented by Roberta Geidner, new CEO of the YWCA. She explained the proposal for signage as there is only one current indicator which is the YWCA etching above the door. She described the process which the organization arrived at the proposed signage. They met with the neighborhood association and discussed options. They propose a two sided perpendicular free standing sign, placed in the lawn to the left of the entrance as well as three interchangeable banners to be hung individually throughout the year.
- The freestanding sign will be 3'x2' with orange lettering on a white background. The banners are similar to others found nearby. They are promotional banners to be displayed one at a time seasonally to provide visibility to their programs. The banners will be placed to the left of the main entrance between the two windows. They will be attached by straight poles top and bottom.
- Joan Burgasser stated that the neighborhood association appreciates the efforts that the YWCA has shown working with the neighborhood. She indicated concern about the size of the proposed signage as related to the Zoning Ordinance. She suggests alternative signage considerations and provided examples of such.
- John Fox stated that Zoning is not under the purview of the HARB.

*A motion by Craig Zumbrun, second by Genevieve Ray, the board voted 6-0 to approve the application as presented with the stipulation that the pole brackets be attached to the mortar not the brick.*

10. 155 South Queen Street – A request by Josh Hankey for a Certificate of Appropriateness to scrape and paint and repair the existing storefront and install new windows and a new door and light fixture.

Points of Discussion

- The application was presented by Josh Hankey. He explained the condition of the property and the deteriorated storefront including mirrored glass. He described the mirrored glass, inappropriate door and deteriorated wood elements. He stated he would like to find a ¾ lite wood door from a salvage facility such as Refindings to install.
- Discussion took place related to the various iterations of the storefront and materials and configurations. A board member indicated much conjecture is evident.
- Mr. Hankey inquired as to the potential for the owner to have an ad mural put on the blank facade wall to the south. Discussion about what may have been there previously, including Marie Rolander stated that she recalled a metal sign there many years ago. The board directed him to return with a proposal when prepared.

*On a motion by Craig Zumbrun, second by Robin Pottorff, the board voted 6-0 to approve the application as presented.*

11. 22-24 North George Street – A request by Jodi Bauhof for a Certificate of Appropriateness to install exterior signage.

Points of Discussion

- The application was presented by Jodi Bauhof. She indicated the proposal for two signs. One as a projecting sign above the door way made of MDO wood composite. The other is to be a sign placed above the storefront with conduit gooseneck lighting. She indicated that there are existing holes for the projecting sign that will be reused.
- Discussion related to the lighting installation and attachment to the mortar not the brick.

*On a motion by Mark Shermeyer, second by Craig Zumbrun, the board voted 6-0 to approve the application as presented with the stipulation that the conduit be painted to match the background.*

Council of the City of York, PA

Session 2013

Bill No. 18

Ordinance No. 15

*Carol Hill-Evans*

INTRODUCED BY: Carol Hill-Evans

DATE: November 6, 2013

AMENDED BY: Michael Ray Helfrich

DATE: November 19, 2013

*Michael Ray Helfrich*

AN ORDINANCE

Adopting Article 1126 - Regulation of Portable Toilets.

WHEREAS, the City of York, Pennsylvania is obligated to protect the health, safety and welfare of the public; and

WHEREAS, the placement of portable toilets has a direct impact on the health, safety and welfare of the public;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of York, Pennsylvania hereby adopts Article 1126 – Regulation of Portable Toilets.

ARTICLE 1126

REGULATION OF PORTABLE TOILETS

1126.01 PORTABLE TOILETS

No person, firm, partnership, corporation, non-profit or franchise (hereinafter “individual”) shall place or install a portable toilet in the City except as provided for in this Article.

1126.02 DEFINITIONS

For the purposes of this Article, the following definitions shall apply and absent a specific definition herein all words and phrases shall have their ordinarily accepted meanings:

- a. **Offensive odor** means any odor escaping from the portable toilet structure that can be detected outside of said structure.
- b. **Portable Toilet** means a free standing, movable toilet structure equipped with a water-tight impervious container which receives waste discharged through of a hopper, seat, urinal or similar device and into which container may be placed disinfecting or deodorizing chemicals. For the purposes of this section, portable toilet and chemical toilet shall have the same meaning.
- c. **Parks/Open Space** means public passive or active recreation areas including but not limited to; parks, hiking trails, natural areas, wild life areas, arboretums, open grass areas and tot lots, baseball diamonds, tennis courts, basketball courts, play fields, playgrounds, outdoor swimming pools, fitness courses and driving ranges. For the purposes of this section common areas owned and operated by homeowners associations are also included in this definition.

### 1126.03 ALLOWABLE USE OF PORTABLE TOILETS

Portable toilets may only be used to provide temporary bathroom facilities for special events, seasonal bathroom facilities on public and private parks and open recreational spaces, or as part of construction projects. In no case shall portable toilets be used as permanent sanitary facilities for residential or nonresidential uses, or as secondary sanitary facilities on existing developed lots.

### 1126.04 PERMIT REQUIRED

Permit required. No individual shall place or install a portable toilet in the City without first obtaining a Portable Toilet Permit. Application for such permit shall be made to the Office of Permits, Planning & Zoning of the City of York. The application fee shall be established by resolution of Council.

#### 1126.04.1 REQUIRED INFORMATION

Permit applicants shall provide the following information when applying for a Portable Toilet placement permit, incomplete applications shall be rejected:

- a. The owner of the property
- b. The owner of the portable toilet(s)
- c. Dates during which the portable toilets are to be provided
- d. A site plan of sufficient detail identifying the proposed location of portable toilet(s)
- e. Emptying and maintenance schedule and procedures.

#### 1126.04.2 PERMIT DURATION

A permit shall be valid for not more than fifteen (15) days and may, upon written request and subject to approval of the Building Code Official, be extended for one (1) additional fifteen (15) day period. (Council Note: Amendment added 11/19/13 by Helfrich)

#### 1126.04.3 PERMIT EXEMPTION

Under the following specific instances a portable toilet placement permit shall not be required:

- a. Community events. The placement of portable toilets by the City of York on public property for community events lasting up to seven (7) calendar days and
- b. The seasonal placement of portable toilets by the City of York at public recreational facilities.
- c. Private Events: The placement of portable toilets on private property for private outdoor events lasting up to four (4) days, as long as an outdoor event permit has been approved by the City.
- d. Public Road and Utility Projects: Portable toilets placed on public or private property in conjunction with public road and utility construction projects, as long as the location is approved by the City
- e. Private Development Construction Projects: Portable toilets placed on private property in conjunction with private development road and utility projects, or individual building projects, as long as the location is approved as a part of the permit for the project.
- f. Emergencies and Natural Disasters: Any portable toilet placed to support emergency services operations during emergencies and natural disasters.

#### 1126.05 LOCATION AND ORIENTATION

Any individual that places or causes to be placed a portable toilet shall comply with the requirements of this section irrespective of a requirement for permitting.

- a. Setback from residential property. Portable toilets shall be located at least ten (10) feet from any residential property line.
- b. Setback from non-residential property. Portable toilets shall be located at least ten (10) feet from any non-residential property line.
- c. Setback from lake or stream. Portable toilets shall be set back at least fifty (50) feet from the ordinary high water elevation of any lake or stream.
- d. Setback from wetlands. Portable toilets shall be located at least thirty (30) feet from the edge of any wetland or pond, and shall not be located within any required wetland buffer.
- e. Orientation. Portable toilets shall be oriented in such a way that the opening or door face away from any residential dwelling unit unless screened by a solid fence of at least six (6) feet in height equipped with a door or scree wall which completely blocks the view of the portable toilet .
- f. In addition to the above requirements, all portable toilets shall be located in such a manner as to allow for the appropriate servicing of said portable toilet and to ensure that any vehicle required for said servicing shall not cause damage to adjoining properties.

#### 1126.06 SCREENING

Any portable toilet located with parks and open space as defined herein and located less than fifty (50) feet from a dwelling unit must be screened by a solid fence at least six (6) feet in height.

#### 1126.07 EMPTYING AND MAINTENANCE SCHEDULE

All portable toilets shall be emptied by a person, firm or corporation engaged in the business of cleaning or emptying portable toilets and recharged at a sufficient frequency to prevent the escape of offensive odors or spillage. Every individual engaged in the business of cleaning or emptying portable toilets shall use a suitable vehicle properly provided in water-tight, completely closed tanks or boxes designed to prevent leakage onto the streets or highways and further designed to prevent the escape of offensive odors in the atmosphere.

#### 1126.08 PUBLIC NUISANCE

Any portable toilet that is placed without the required permit, emits an offensive odor, is leaking, is located in contradiction to the requirements of this article, is located in such a manner as to block any public or private right of way, or that in any way causes a hazard to the public health safety and welfare shall be declared a public nuisance. The Building Code Official and or his designee shall immediately cause to be removed any portable toilet that is deemed a public nuisance, and the owner of said portable toilet shall be responsible for such removal and any cost thereof. The declaration of public nuisance and removal of the portable toilets may be in addition to the penalty section of this article.

#### 1126.09 ENFORCEMENT

The Building Code Official and or his designee(s) shall have the authority to enforce this Article and shall have the authority to institute summary criminal proceedings as a means of enforcement and shall, when acting within the scope of their employment hereunder, have the powers of a police officer of the City; provided, however, that under no circumstances shall they have the power to arrest.

1126.10 SEVERABILITY

If any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of this section and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.

1126.99 PENALTY

Any person who shall violate a provision of this article, or fail to comply with any of the requirements thereof, shall be guilty of a summary offense, punishable by a fine of not less than \$100.00 nor more than \$1000.00 for the first two continual and uncorrected violations and not exceeding five thousand dollars (\$5,000) for the third and any subsequent continual and uncorrected violation and the costs of prosecution, and in default of the payment thereof, shall be imprisoned for not more than ninety days (90 days). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

This ordinance shall become effective twenty-days after approval by the Mayor.

PASSED FINALLY: **November 16, 2013** BY THE FOLLOWING VOTE:

YEAS: Helfrich , Satterlee , Nelson , Hill-Evans - 4

NAYS: None

Carol Hill-Evans  
Carol Hill-Evans, President of Council

ATTEST:

Dianna L. Thompson-Mitchell  
Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this 19<sup>th</sup> day of November 2013.

APPROVED: A. Kin Bracey 11/19/13  
Mayor Date

VETOED: \_\_\_\_\_  
Mayor Date