

2018

Town of Baldwin Maine Ordinances

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TOWN OF BALDWIN BARKING DOG ORDINANCE

No owner or keeper of any dog kept within the legal limits of the Town of Baldwin shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking, howling or other loud or unusual noises anytime day or night.

Upon written complaint by the person disturbed, signed and sworn to, any constable, duly qualified law enforcement official, animal control officer or person acting in that capacity of the Town of Baldwin may investigate and may give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint. Thereafter, upon continuance of such annoyance or disturbance, such owner shall be guilty of a civil violation and upon conviction thereof shall be punished by a fine of \$50.00 for the first offense. Each additional conviction after the first conviction shall be punished by a fine of \$50.00. All fines so assessed and attorney fees shall be recovered for the use of the Town of Baldwin through District Court.

GENERAL ASSISTANCE ORDINANCE APPENDICES A-D 2017-2018

The Municipality of Baldwin adopts the MMA Model Ordinance GA Appendices (A-D) for the period of Oct. 1, 2017—September 30, 2018. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the 26 (day) of Sep (month) 2017 (year)
by the municipal officers:

Robert B. Flint

(Print Name)

Dwight A. Warren

(Print Name)

Jeffrey Sanborn

(Print Name)

(Print Name)

(Print Name)

(Print Name)

Robert B. Flint

(Signature)

Dwight A. Warren

(Signature)

Jeffrey Sanborn

(Signature)

(Signature)

(Signature)

(Signature)

2017-2018 GA Overall Maximums

Metropolitan Areas

COUNTY	Persons in Household				
	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	714	788	994	1,242	1,506
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	605	682	847	1,095	1,269
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	641	726	915	1,169	1,397
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	1,002	1,131	1,431	1,931	2, 097
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	982	1,025	1,333	1,714	2,173
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	761	807	1,072	1,561	1,780

Appendix A
Effective: 10/01/17-09/30/18

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	781	863	999	1,318	1,600
York County HMFA: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	745	872	1,079	1,457	1,477

*Note: Add \$75 for each additional person.

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	618	642	760	965	1,049
Franklin County	646	671	793	985	1,400
Hancock County	693	787	992	1,249	1,367
Kennebec County	722	746	928	1,216	1,297
Knox County	754	755	928	1,186	1,315
Lincoln County	783	834	987	1,234	1,470
Oxford County	630	646	771	1,110	1,343
Piscataquis County	595	672	828	1,090	1,125
Somerset County	675	704	835	1,133	1,146
Waldo County	680	751	887	1,206	1,281
Washington County	630	645	763	985	1,173

* Please Note: Add \$75 for each additional person.

2017-2018 Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. As of October 1, 2017, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	44.65	192
2	81.86	352
3	117.21	504
4	148.84	640
5	176.74	760
6	212.33	913
7	234.65	1,009
8	268.14	1,153

Note: For each additional person add \$144 per month.

2017-2018 GA Housing Maximums (Heated & Unheated Rents)

NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS! Municipalities should **ONLY consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. Or, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. *(See Instruction Memo for further guidance.)*

Non-Metropolitan FMR Areas

<u>Aroostook County</u>				
Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	111	476	130	559
1	111	476	134	578
2	130	558	159	684
3	167	718	204	878
4	177	762	221	949
<u>Franklin County</u>				
Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	117	503	137	587
1	117	503	141	607
2	137	591	167	717
3	173	743	209	898
4	258	1,108	302	1,300
<u>Hancock County</u>				
Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	124	535	147	633
1	139	599	167	720
2	183	788	213	915
3	227	976	270	1,159
4	242	1,041	294	1,264
<u>Kennebec County</u>				
Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	131	564	154	662
1	131	564	158	679
2	168	724	198	851
3	219	943	262	1,126
4	226	971	278	1,194

Appendix C
Effective: 10/01/17-09/30/18

Non-Metropolitan FMR Areas

<u>Knox County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	139	596	161	694
1	139	596	161	694
2	168	724	198	851
3	212	913	255	1,096
4	230	989	282	1,212
<u>Lincoln County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	145	625	168	723
1	150	646	178	767
2	182	783	212	910
3	223	961	266	1,144
4	266	1,144	318	1,367
<u>Oxford County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	110	472	133	570
1	110	472	135	579
2	132	567	161	694
3	195	837	237	1,020
4	237	1,017	288	1,240
<u>Piscataquis County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	106	457	126	540
1	118	508	143	613
2	147	630	177	759
3	198	853	235	1,011
4	198	853	240	1,034
<u>Somerset County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	120	517	143	615
1	121	519	148	637
2	147	631	176	758
3	202	869	243	1,043
4	202	869	243	1,043

Appendix C
Effective: 10/01/17-09/30/18

Non-Metropolitan FMR Areas

<u>Waldo County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	121	522	144	620
1	131	563	159	684
2	159	683	188	810
3	217	933	260	1,116
4	222	955	274	1,178
<u>Washington County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	110	472	133	570
1	110	472	134	578
2	130	559	160	686
3	166	712	208	895
4	208	847	249	1,070

Metropolitan FMR Areas

<u>Bangor HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	129	556	152	654
1	140	600	168	721
2	184	790	213	917
3	225	969	268	1,152
4	275	1,180	326	1,403
<u>Penobscot Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	104	447	127	545
1	115	494	143	615
2	149	643	179	770
3	191	822	234	1,005
4	219	943	271	1,166
<u>Lewiston/Auburn MSA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	112	483	135	581
1	125	538	153	659
2	165	711	195	838
3	208	896	251	1,079
4	249	1,071	301	1,294

Appendix C
Effective: 10/01/17-09/30/18

Metropolitan FMR Areas

<u>Portland HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	196	844	219	942
1	219	943	247	1,064
2	285	1,227	315	1,354
3	386	1,658	428	1,841
4	412	1,771	464	1,994
<u>York/Kittery/S. Berwick HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	192	824	214	922
1	195	837	223	958
2	263	1,129	292	1,256
3	335	1,441	378	1,624
4	430	1,847	481	2,070
<u>Cumberland Ctv. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	140	603	163	701
1	144	619	172	740
2	202	868	231	995
3	299	1,288	342	1,471
4	338	1,454	390	1,677
<u>Sagadahoc Ctv. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	145	623	168	721
1	157	675	185	796
2	185	795	214	922
3	243	1,045	286	1,228
4	296	1,274	348	1,497
<u>York Ctv. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	136	587	159	685
1	159	684	187	805
2	203	875	233	1,002
3	275	1,184	318	1,367
4	269	1,156	320	1,374

APPENDIX D - UTILITIES

ELECTRIC

NOTE: For an electrically heated dwelling also see "Heating Fuel" maximums below. But remember, an applicant is *not automatically* entitled to the "maximums" established—applicants must demonstrate need.

1) **Electricity Maximums for Households *Without Electric Hot Water*:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.90	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

NOTE: For each additional person add \$7.50 per month.

2) **Electricity Maximums for Households *With Electrically Heated Hot Water*:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.65	\$89.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75	\$167.00
6	\$41.00	\$176.00

NOTE: For each additional person add \$10.00 per month.

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

APPENDIX E - HEATING FUEL

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

FOR MUNICIPAL USE ONLY

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

FOR MUNICIPAL USE ONLY

October 1, 2017 to Sept 30, 2018 (Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago)

OVERALL MAXIMUMS

Persons in Household

1	2	3	4	5
761	807	1072	1,561	1,780

Household of 6 = 1,855

* Add \$75 for each additional person

FOOD MAXIMUMS

Persons	Weekly	Monthly
1	44.64	192
2	81.86	352
3	117.21	504
4	148.84	640
5	176.74	760
6	212.33	913
7	234.65	1,009
8	268.14	1,153

Add \$144 per month for each + person

HEATING FUEL

Month	Gallons	Month	Gallons
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

Housing Maximums

BEDROOM	UNHEATED		Heated	
	Weekly	Monthly	Weekly	Monthly
0	140	603	163	701
1	144	619	172	740
2	202	868	231	995
3	299	1,288	342	1,471
4	338	1,454	390	1,677

PERSONAL CARE & HOUSEHOLD SUPPLIES

Number in Household	Weekly Amount	Monthly Amount
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

Number of Children	Weekly Amount	Monthly Amount
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

ELECTRIC

NOTE: For an electrically heated dwelling also see "Heating Fuel" maximums below. But remember, an applicant is not automatically entitled to the "maximums" established applicants must demonstrate need.

1) Electricity Maximums for Households Without Electric Hot Water: The maximum amounts allowed for utilities, for lights, cooking and other electric uses excluding electric hot water and heat:

Number in Household	Weekly	Monthly
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.90	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

NOTE: For each additional person add \$7.50 per month.

2) Electricity Maximums for Households With Electrically Heated Hot Water: The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses excluding heat:

Number in Household	Weekly	Monthly
1	\$20.65	\$89.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75	\$167.00
6	\$41.00	\$176.00

NOTE: For each additional person add \$10.00 per month.

1-800-442-6003

Revised 10-1-17

**General Assistance Ordinance
For the Town of Baldwin**

Background: In accordance with Title 22 MSRA Section 4305, the Town of Baldwin is required to administer a general assistance program in accordance with an ordinance enacted by the municipal officers, after seven days of posted notice and a hearing. As outlined by the Maine Department of Health and Human Services, the process to adopted the ordinances and any appendices is:

At the public hearing, the municipal officers should:

1. Allow all interested members of the public an opportunity to comment on the proposed ordinance;
2. End public discussion, close the hearing; and
3. Move and vote to adopt the ordinance either in its posted form or as amended in light of public discussion.
- 4.

The Maine Municipal Association maintains a model General Assistance Ordinance that they update as required to reflect changes in Maine statues and to reflect the state accepted criteria for determining GA eligibility. The MMA model GA ordinance is used by a majority of towns in Maine.

In accordance with Title 22 MRSA Section 4305.3-A municipalities may also establish maximum levels of general assistance by ordinance. The legislature periodically updates and revises rules for determining "maximum levels of assistance." The maximum levels of assistance must set reasonable and adequate standards sufficient to maintain health and decency. The schedule of maximum levels of assistance ordinance is generally treated as an appendix to the town's GA ordinance. The maximum level of assistance established by municipal ordinance is subject to review by the Department of Health and Human Services. The maximum level of assistance ordinance, the GA ordinance, and any other amendments or modifications are required to be submitted to the Maine Department of Health and Human Services. MMA annually publishes a "General Assistance Ordinance Appendix" which is distributed by the Maine Department of Health and Human Services. These annual appendix updates must be approved annually by the selectmen.

Ordinance: Baldwin hereby adopts the MMA General Assistance Ordinance as its General Assistance Ordinance. A copy of that Ordinance is incorporated by Reference and attached hereto. When the MMA model ordinance is updated, it may be presumed to have been adopted automatically and will become the Baldwin General Assistance Ordinance unless the municipal officers order otherwise. Annual Appendices revisions will be presumed to have been approved annually by the Municipal Officers unless they order otherwise. A copy of this ordinance, including all forms and notices, shall be filed with the Department.

This ordinance and a copy Title 22 Chapter 1161 of the Maine Revised Statutes shall be available in the town office, and be accessible to any member of the public. Written notice to that effect shall be posted in the Town Offices.

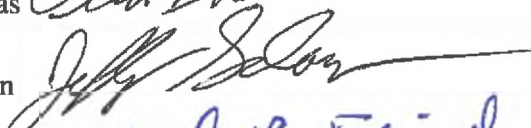
Baldwin Board of Selectmen

Date 24 May 16

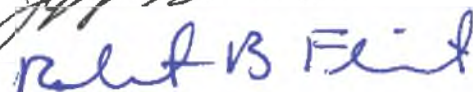
Olin Thomas



Jeff Sanborn



Bob Flint



GENERAL ASSISTANCE ORDINANCE

The Municipality of Baldwin enacts the following General Assistance Ordinance. This Ordinance is filed with the Department of Health & Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the 31 day of May, 2016, by the municipal officers:
(day) (month) (year)

Olin Thomas
(Print Name)

Olin Thomas
(Signature)

Robert B Flint
(Print Name)

Robert B Flint
(Signature)

Jeffrey Sanborn
(Print Name)

Jeffrey Sanborn
(Signature)

(Print Name)

(Signature)

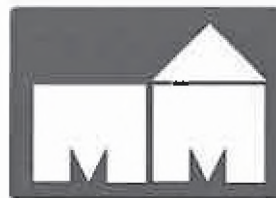
(Print Name)

(Signature)

(Print Name)

(Signature)

GENERAL ASSISTANCE ORDINANCE



**Prepared by Maine Municipal Association
September 2013**

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ARTICLE I

Statement of Policy

The Municipality of _____ administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours of receiving an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an

applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (*see section 5.6 of this ordinance*).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential as a matter of law (*see 22 MRSA §4306*).

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person/entity, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted.

ARTICLE II

Definitions

Section 2.1—Common Meaning of Words

Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

Section 2.2—Special Definitions

Applicant. A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an authorized application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

Application Form. A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

Basic Necessities. Food, clothing, shelter, fuel, electricity, non-elective essential medical services as prescribed by a physician, nonprescription drugs, basic telephone service where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality.

"Basic necessities" do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt**
- Furniture
- Loan re-payments**

- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees
- Late fees
- Key deposits
- Security deposits for rental property(except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S.A. § 4301(1)).

****Repayments of loans or credit will be treated as having been spent on basic necessities when the applicant can provide verification of this fact.**

Case Record. An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant's request for fair hearing and those fair hearing decisions.

Categorical Assistance. All state and federal income maintenance programs.

Claimant. A person who has requested a fair hearing.

Deficit. An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in section 6.8 of this ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

Disabled Person. A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician or qualified mental health provider.

Dwelling Unit. A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (22 M.R.S.A. § 4301(2)).

Eligible Person. A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance (22 M.R.S.A. § 4301(3)). "Eligible Person" does not include a fugitive from justice as defined in 15 M.R.S.A. § 201(4).

Emergency. Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. At the municipality's option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the individual or municipality if not resolved immediately. (22 M.R.S.A. §§ 4301(4), 4308(2), 4310).

General Assistance Program. A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S.A. § 4301(5)).

General Assistance Administrator. A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as a town manager, welfare director, or caseworker (22 M.R.S.A. § 4301(12)).

Household. "Household" means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The pro rata share is calculated by dividing the maximum level of assistance available to the entire household by the total number of household members. The income of household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. § 4301(6)).

Income. "Income" means any form of income in cash or in kind received by the household including:

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Payments received as an annuity, retirement or disability benefits
- Veterans' pensions and/or benefits
- Retirement accounts or benefits
- Workers' compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance program such as, TANF, Supplemental Security Income, Social Security and any other payments from governmental sources (unless specifically prohibited by any law or regulation)
- Court ordered support payments, e.g., child support
- Income from pension or trust funds
- Household income from any other source, including relatives or unrelated household members
- Student loans
- Rental income

The following items shall not be considered as income or assets that must be liquidated for the purposes of deriving income:

- 1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- 2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
- 3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality (22 M.R.S.A. § 4301(7)).

- 4) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:
 - Food Stamps (7 USCS § 2017(b))
 - Li-Heap (42 USCS § 8624)
 - Family Development Accounts (22 M.R.S. § 3762)
 - Americorp VISTA program benefits (42 USCS § 5044 (f))
 - Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))
 - Aspire Support Service Payments (10-144 CMR Chapter 323)

Initial Applicant. A person who has not applied for assistance in this or any other municipality is considered an initial applicant.

Just Cause. A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility or from attending a scheduled fair hearing (22 M.R.S.A. § § 4301(8), 4316-A(5)).

Lump Sum Payment. A one-time or typically nonrecurring sum of money issued to an applicant or recipient. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a non-liquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. (22 MRSA § 4301 (8-A)).

Material Fact. A material fact is a fact that necessarily has some bearing on the determination of an applicant's general assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

Maximum Levels of Assistance. The amount of financial assistance for a commodity or service as established in section 6.8 of this ordinance or the actual cost of any such basic necessity, whichever is less.

Misconduct. For purposes of the GA work requirement (*see 22 MRSA §4316-A*) misconduct shall have the same meaning as misconduct defined in 26 MRSA §1043 (23). (*See Appendix I of this ordinance for the official definition of misconduct.*) Generally, employees are guilty of misconduct when the employee violates his or her

duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.

Municipality. Any city, town or plantation administering a general assistance program.

Municipality of Responsibility. The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S.A. § § 4301(9), 4307).

Need. The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance (22 M.R.S.A. § § 4301(10), 4308).

Net General Assistance Costs. Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program (22 M.R.S.A. §§ 4301(11), 4311).

Period of Eligibility. The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month (22 M.R.S.A. § 4309(1)).

Pooling of Income. "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

Real Estate. Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13)).

Recipient. A person who has applied for and is currently receiving general assistance.

Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

Resident. A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).

Resources. Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: "available" and "potential". Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for

which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). At the discretion of the GA administrator a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s).

30-Day Need. An applicant's 30-day need is the sum of the household's prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household's actual 30-day cost for the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

Unforeseen Repeat Applicants. Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.

Unmet Need. An applicant's unmet need is the household's 30-day need as established by section 6.6 of the ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

Work Requirements. Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized

by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

ARTICLE III

Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

Section 3.1—Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

Release of Information. Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

Information from Other Sources; Penalty. Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S.A. § 2706).

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a

material fact to the administrator is committing a Class E crime (22 M.R.S.A. § § 4314, 4315).

Misuse of Information. Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

Case Records. The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- | | |
|---------------------------------|----------------------------------|
| • household applications | deficit or unmet need, |
| • budget sheets | whichever is less) |
| • information concerning the | • written decisions |
| types and amounts of | • requests for fair hearings and |
| assistance provided | the fair hearing authority |
| • narrative statements | decisions |
| describing the nature of the | • workfare participation records |
| emergency situation | • repayments to the |
| whenever general assistance | municipality |
| is granted in amounts greater | • narrative writings |
| than the applicant's | documenting the need for |
| mathematical eligibility (i.e., | general assistance, the |

- results of home visits,
 - collateral information,
 - referrals, changes in status
- client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information
- adjustments in aid, and suspension or termination of eligibility
- physician's documentation
- Supplemental Security Income (SSI) interim assistance reimbursement authorization forms
- vendor forms

Case records will not include information or material that is irrelevant to either the applicant's or recipient's application or the administrator's decisions.

Retention of Records. General assistance records shall be retained for a minimum of three full years. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred methods of destruction for confidential records, i.e., supervised shredding, burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

ARTICLE IV

Application Procedure

Section 4.1—Right to Apply

Who May Apply. Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in section 4.9 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. §4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. § § 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator. Note that fugitives from justice are ineligible for general assistance.

Application Via Telephone. When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification by mail and visiting the applicant's home with his or her permission (22 M.R.S.A. § 4304).

Written Application Upon Each Request. Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. § § 4308, 4309).

Applications Accepted; Posted Notice. Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the DHHS toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

Section 4.2—Application Interview

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

Section 4.3—Contents of the Application

At a minimum, the application will contain the following mandatory information:

- | | |
|--|---|
| a) applicant's name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number; | household members for whom the applicant is seeking assistance; |
| b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other | c) total number of individuals living with the applicant; |
| | d) employment and employability information; |

- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant's permission to verify information;
- j) signature of applicant and date.

In the event an initial applicant is unable to provide identification records (e.g., Social Security card/number) because the record may have been lost, stolen or misplaced, the initial applicant may be provided a reasonable amount of time, e.g., five working days, in order to obtain copies of identification records. Provided the initial applicant makes a good faith effort to obtain the item/record sought, GA required to cure an immediate and/or emergency need shall not be withheld. In such cases the municipality may elect to provide only a prorated amount of GA, e.g., five day's worth, while the applicant proceeds to obtain the required information.

Section 4.4—General Assistance Administrator's Responsibilities at the Time of the Application

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and applicant reimbursement obligations.

Application Requirements. The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

Eligibility Requirements. The administrator will inform, either verbally or in writing, the applicant of the eligibility requirements of the program, including:

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-basic necessities; and
- the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

Applicant Rights. The administrator will inform all applicants of their rights to:

- review the municipal General Assistance ordinance and Maine General Assistance law;
- apply for assistance;
- receive a written decision concerning eligibility within 24 hours of applying for assistance;
- confidentiality;
- contact the DHHS;
- challenge the administrator's decision by requesting a fair hearing.

Reimbursement/Recovery. The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for

the applicant's support (spouses, parents of persons under the age of 25, see Article VIII, "Recovery of Expenses") (22 M.R.S.A. § § 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, "Recovery of Expenses".

Section 4.5—Responsibilities of the Applicant at the Time of Application

The applicant has the responsibility at the time of each application to provide accurate, complete and current household information and verifiable documentation concerning:

- Income
- Resources
- Assets
- Employment
- Use of income
- Names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect household eligibility (22 M.R.S.A. §4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant:

- a) has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
- b) has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

- c) has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and
- d) has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. § §4316-A, 4317).

Section 4.6—Action on Applications

Written Decision. The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. § § 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

Content. The written decision will contain the following information:

- a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- b) the period of eligibility if the applicant is eligible for assistance;
- c) the specific reasons for the decision;
- d) the applicant's right to a fair hearing; and

- e) the applicant's right to notify the DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A. § 4321).

Section 4.7—Withdrawal of an Application

An application is considered withdrawn if:

- a) the applicant requests in writing that his or her application be withdrawn; or
- b) the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

Section 4.8—Temporary Refusal to Accept Application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications. Such circumstances may include, but are not limited to, the following:

- a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
- b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;

- c) When a third person applies for assistance on behalf of the applicant that person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

Section 4.9—Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S.A. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. § 4308).

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs to either the client or the municipality.

Disqualification. A person who is currently disqualified from receiving General Assistance due to a violation of sections 5.5, 5.6, 5.7, 5.8, 5.9 or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

Assistance Prior to Verification. Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

- a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and
- b) the applicant submits documentation when possible, to verify his or her need. The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. § 4310).

Telephone Applications. If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator shall accept an application over the telephone (22 M.R.S.A. § 4304).

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his or her home or by mail and the administrator cannot determine his or her eligibility through any other means.

Limitation on Emergency Assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 MRSA § § 4308(2) & 4315-A).

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert

the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

- a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.
- b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.
- c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

- f) The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for general assistance.
- g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

Section 4.10—Residence

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

Moving/Relocating. The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after he/she moves provided the recipient remains eligible.

Institutions. If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or

hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution if the conditions of 22 M.R.S.A. § 4307 and §4313 are met. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution (22 M.R.S.A. § 4307(4)).

Temporary Housing. Hotels/motels and similar places of temporary lodging are considered institutions if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

Note: Municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties (22 M.R.S.A. § 4307(4)).

Disputes. When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the DHHS in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality. (22 M.R.S.A. § § 4307(5), 4307(6)).

ARTICLE V

Eligibility Factors

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

Section 5.1—Initial Application

Initial Application. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 1043 (23)) (*see section 5.5 of this ordinance*) and to fugitives from justice as defined in 15 M.R.S.A. § 201(4) (22 M.R.S.A. § 4301(3)). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

“Need” means that the applicant’s income (including prorated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in section 6.8 of this ordinance or the applicant’s 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

Subsequent Applicants. Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

Section 5.2—Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)).

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under "Types of Income" at section 6.7 of this ordinance. For several additional exceptions please refer to the definition of "Income" in this ordinance (see page 7, subsection 4).

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

Section 5.3—Personal Property

- a) **Liquid Assets.** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his or her basic needs, and thereby exhausts them. At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking account per

household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.

- b) **Tangible Assets.** No person owning or possessing personal property, such as but not limited to: a motor vehicle (except as provided immediately below in subsection c), or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 2.2 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful. Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.
- c) **Automobile Ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned "essential"

reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated costs of maintenance as “misspent” income. General assistance for travel-related needs shall be computed in accordance with section 6.8(F)(7), (8) “Work Related/Travel Expenses.”

- d) **Insurance.** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.
- e) **Transfer of Property.** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will be issued. There will be a presumption that the applicant transferred his or her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

Section 5.4—Ownership of Real Estate

- a) **Principal Residence.** For purposes of General Assistance solely, the applicant's principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

1. The applicant has received General Assistance for the last 120 consecutive days; and
2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and
4. The land is not utilized for the maintenance and/or support of the household; and
5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

If the above conditions are met, then the administrator may condition the receipt of future assistance on the applicant's good faith efforts to sell, or render saleable, land which could be used to provide necessary support for the applicant (e.g., the applicant owns 100 "excess" acres. Sale of 10 of the acres would provide for the necessary support and therefore not all the land need be sold at the present time.) Assistance shall not be denied during the time that the applicant is making a good faith effort to sell or render saleable the land in question.

Once the applicant ceases to receive assistance the obligations under this section shall also cease.

b) **Other Property.** If the applicant or dependents own real property other than that occupied as the principal residence, continued eligibility will depend on the applicant making a reasonable effort to:

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property.

The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (*see also section 6.8 of this ordinance*) (22 M.R.S.A. § 4320).

Section 5.5—Work Requirement

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

Employment; Rehabilitation. All unemployed applicants and members of their households who are 16 years of age or older and who are not attending a full-time primary or secondary school intended to lead to a high school diploma will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and rehabilitative services, except as provided below (*see "Exemptions"*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A "suitable job" means any job, which the applicant is mentally and physically able to perform. "Available for work" means that applicants must make themselves available for

work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

Verification. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers.

For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

Ineligibility. After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

- a) refuse to register for employment with the Maine Job Service;
- b) refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places

repeatedly will not be considered to be performing a diligent worksearch and will be disqualified;

- c) refuse to accept a suitable job offer;
- d) refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e) fail to be available for work; or
- f) refuse to participate or participate in a substandard manner in the municipal work program (*see section 5.6*).

Ineligibility Due to Job Quit or Discharge for Misconduct. No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct (*see Appendix I, 26 M.R.S.A. § 1043 (23) for the definition*) will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. § § 4301(8), 4316-A (1-A)).

Just Cause. Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a) the applicant has a physical or mental illness or disability which prevents him/her from working;
- b) the work assignment pays below minimum wages;
- c) the applicant was subject to sexual harassment;
- d) the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;

- e) the applicant has no means of transportation to or from work or a training or rehabilitation program;
- f) the applicant is unable to arrange for necessary child care or care of ill or disabled family members; or
- g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. § 4316-A(5)).

Applicant's Burden of Establishing Just Cause. If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).

Eligibility Regained. Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § § 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in section 5.6 of this ordinance, under "Eligibility Regained".

Dependents. Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

- a) a dependent minor child;
- b) an elderly, ill, or disabled person; and

- c) a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

Exemptions. The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

Section 5.6—Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A(2)).

As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient

in securing employment. The work requirement provisions found in section 5.5 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

Consent. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

Subtracting Value of Workfare Performed from Client's GA Debt. Pursuant to 22 MRSA § 4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (*see Article VIII*). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.

Limitations. The work requirement is subject to the following limitations (22 M.R.S.A. § 4316-A(3)).

- 1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.
- 2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.

- 3) In no case shall eligible persons performing work under this subsection replace regular municipal employees.
- 4) In no case will work performed under this subsection interfere with an eligible person's:
 - a) existing employment;
 - b) ability to follow up on a bona fide job offer;
 - c) attendance at an interview for possible employment;
 - d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
 - e) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by the DHHS or the Department of Labor.
- 5) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.
- 6) In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

If the administrator requires a doctor's statement to verify an applicant's illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor's evaluation if the applicant has no means to pay for the exam. However in such a case the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require

verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316(5)).

- 7) In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following "workfare first" policy.

"Workfare First" Policy. Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

- 1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
- 2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
 - a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
 - b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);

- c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;
 - d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;
 - e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers; and
 - f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- 3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- 4) If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.
- 5) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just

cause reasons shall be reassigned or excused at the discretion of the GA administrator.

Work-Related Expenses. A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316-A(2)(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his or her work assignment.

Disqualification. Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, will be ineligible for assistance for 120 days (22 M.R.S.A. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

Eligibility Regained. Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (*see section. 5.5, "Dependents"*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible.

If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked for the opportunity to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of ineligibility for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provided no opportunity to requalify.

Any recipient who intentionally causes damage to property, harasses or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

Reports. The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the DHHS (22 M.R.S.A. § 4316-A(2)).

Section 5.7—Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (*see section 2.2 for definition of “Resources”*). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

Minors. A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the both parents are unknown; or
- 3) no parent will permit the minor to live in the parent’s home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- 5) the DHHS determines that the physical or emotional health or safety of the minor or the minor’s dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his or her parents are financially capable of repaying the municipality (22 M.R.S.A. § 4319).

With regard to such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant not to be in need of general assistance for the reason that his or her needs can be provided by a legally liable relative.

Mental or Physical Disability. Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

Written Notice; Disqualification. The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

Forfeiture of Benefits. Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture.

To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture—unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. § 4317).

Section 5.8—Period of Ineligibility

No one will have his or her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. §§ 4321–4322). Each person will be notified in writing of the reasons for his or her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of ineligibility.

Work Requirement. Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (*see sections 5.5, 5.6*). If an applicant/recipient is provided assistance and does not comply with the work requirement, the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

Fraud. People who commit fraud are disqualified from receiving assistance for a period of 120 days (*see section 6.4, "Fraud"*). The administrator shall give recipients written notice that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If the disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

Section 5.9 – Unemployment Fraud

An applicant who is found ineligible for unemployment compensation benefits because of a finding of fraud by the Department of Labor pursuant to 26 M.R.S.A. § 1051(1) is ineligible to receive general assistance to replace the forfeited unemployment compensation benefits for the duration of the forfeiture established by the Department of Labor. 22 M.R.S.A. § 4317.

ARTICLE VI

Determination of Eligibility

Section 6.1—Recognition of Dignity and Rights

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his or her individual rights.

Section 6.2—Determination; Redetermination

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may redetermine a person's eligibility at any time during the period he or she is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

Section 6.3—Verification

Eligibility of applicant; duration of eligibility. The overseer shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be redetermined.

Applicant's responsibilities. Applicants and recipients for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide the specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her:

- Need
- Income
- Employment
- Use of income
- Expenses
- Assets & liabilities
- Use of available resources
- Household composition

Initial Applicants. Persons who have not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants (*see below*). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate

to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).

Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. The eligibility of repeat applicants must be determined on the basis of need and all other conditions of eligibility established by law and this municipal ordinance.

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

Repeat applicants are also responsible for providing any changes of information reported on previous applications including changes in his/her household or income that may affect his/her eligibility.

Unforeseen Repeat Applicants. Unforeseen repeat applicants are applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source who have unexpectedly become unemployed through no fault of their own or whose income and/or benefits (e.g., through an available resource) have ceased through no fault of their own. Such unforeseen repeat applicants may be considered initial applicants for purposes of verification requirements and misspent income if the administrator finds that imposing the general verification requirements and misspent income rules imposed on repeat applicants would be unreasonable or inappropriate.

Overseer's responsibilities. In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is

responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

Appropriate sources, which the overseers may contact, include, but are not limited to:

- DHHS and any other department/agency of the state or non-profit organizations
- financial institutions
- creditors
- utility companies
- employers
- landlords
- physicians
- persons with whom the applicant/recipient is a cohabitant
- legally and non-legally liable relatives

Assistance will be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer cannot determine that eligibility exists based on information supplied by the applicant or others.

Redetermination of eligibility. The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is informed of any change in the recipient's circumstances that may affect the amount of assistance to which the recipient is entitled or that may make the recipient ineligible, provided that once a determination of eligibility has been made for a specific time period, a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

Penalty for Refusing to Release Information. Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any such person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. § § 4314(5), 4314(6), 4315).

Section 6.4—Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S.A. § 4315). False representation shall consist of any individual knowingly and willfully:

- a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
- b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
- c) using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

Period of Ineligibility. When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making

himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted.

The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

Right to a Fair Hearing. Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority (FHA) in accordance with Article VII of this ordinance. No recipient shall have his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the FHA may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309(3)).

Reimbursement. If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

Dependents. In no event will the ineligibility of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be

calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

Section 6.5—Period of Eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon receiving a completed and signed application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis.

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant.

Although eligibility is determined on a 30-day basis, for reasons of administrative efficiency the administrator may elect to disburse an applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

Section 6.6—Determination of Need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 4301(7)). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 6.8, whichever is less. The sum of these

expenses, as calculated for a prospective 30-day period, is the applicant's 30-day need. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S.A. § 4308(2)) (*see section 4.9 of this ordinance*).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 6.8 (22 M.R.S.A. § § 4301(10), 4305(3-B)). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's deficit.

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (*see Appendixes A-H of this ordinance*) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305(3-A)).

Income for Basic Necessities. Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need

assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

Use-of-Income Requirements. The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for “unforeseen” repeat applicants (*See Section 6.3 of this ordinance*), repeat applicants may be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the cost of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement, Hospital Free Care or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Items not considered to be basic necessities and thus will not be allowed in the budget computation include:

- Internet services
- Cable or satellite television
- Cellular phones
- Cigarettes/alcohol
- Gifts purchased
- Pet care costs
- Costs of trips or vacations
- Paid court fines
- Repayments of unsecured loans
- Legal fees
- Late fees
- Credit card debt.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income (22 M.R.S.A. § 4315-A). Those additional requirements will be applied in the following manner:

- 1) The administrator may require the applicant to use some or all of his or her income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities;
- 2) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them;
- 3) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income; and
- 4) If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

Calculation of Income and Expenses. When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of section 6.8. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (*see section 4.9*). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

Consolidation of Deficit. As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

- 1) The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
- 2) The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
- 3) The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance.

Section 6.7—Income

Income Standards. Applicants whose income exceeds the overall maximum level of assistance provided in section 6.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

Calculation of Income. To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in section 6.8, applicants will not be considered in need.

Exceptions will be made in emergency situations, which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308) (*see section 4.9 of this ordinance*). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

Types of Income. Income that will be considered in determining an applicant's need includes:

- a) **Earned income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will be deducted from an applicant's income (22 M.R.S.A. § 4301(7)).

- b) **Income from Other Assistance or Social Services Programs.** State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

Other programs whose income cannot be counted for purposes of GA eligibility include:

- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))

- c) **Court-Ordered Support Payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services' Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.
- d) **Income from Other Sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).
- e) **Earnings of a Son or Daughter.** Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.
- f) **Income from Household Members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool

or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

- g) **The Pooling or Non-Pooling of Income.** When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)).

One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs.

If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

- h) **Lump Sum Income.** A lump sum payment received by any GA applicant or recipient prior or subsequent to the date of application for general assistance will be considered as income available to the household. However, verified required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the

purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below, will not be considered available income.

Where a household receives a lump sum payment at any time prior or subsequent to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S.A. § 4301(7), (8-A)):

- 1) identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;
- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));
- 4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
- 5) divide the sum created in subsection (4) by the verified actual monthly amounts for all of the household's basic necessities. 22 M.R.S.A. § 4305(3-B)

This dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. (22 MRSA § 4308)

Section 6.8—Basic Necessities; Maximum Levels of Assistance

Overall Maximum Levels of Assistance. Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in Appendices B-H of this ordinance, an applicant's eligibility for general assistance will be first determined by subtracting his or her income from the overall maximum level of assistance designated in Appendix A for the applicable household size (22 M.R.S.A. § 4305 (3-B)). The difference yielded by this calculation shall be the applicant's deficit.

Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 4.9 of this ordinance.

Maximum Levels of Assistance for Specific Basic Necessities. The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance

with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for rent, fuel, electricity, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance.

Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

A) **Food**. The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size.

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of Health and Human

Services on or about October of each year. See Appendix B of this ordinance for the current year's food maximums.

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

- B) **Housing**. The administrator will provide assistance with rent or mortgage payments that are reasonable and/or within the allowed maximum levels. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

Rental Payments to Relatives. The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's

parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319(2)).

Rental Payments to Non-Relatives. When applicants are living in private homes with the owner or sharing dwelling units with people who are not pooling income or who are not legally liable relatives, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum (22 M.R.S.A. § 4301(6)).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with the most superior interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation (see section 6041(a) of Internal Revenue Code).

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

Mortgage Payments. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In

making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

- (1) the marketability of the shelter's equity;
- (2) the amount of equity;
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation;
- (5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;
- (6) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments;
- (7) the likelihood that the provision of housing assistance will prevent such dislocation; and
- (8) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide.

The administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance if after reviewing the above criteria the administrator determines that:

- (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and
- (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his or her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his or her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

Liens. The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. In addition, a municipality may claim a lien against the owner of real estate for the amount of money spent by it to make capital improvements to the real estate (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his or her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment or capital improvement it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage or capital improvement payment and all subsequent mortgage or capital improvement payments made on behalf of the same eligible person, plus interest and costs.

Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality may charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

Property Taxes. In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek

property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a) the property tax in question is for the applicant's place of residence;
- b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) the applicant, with sufficient notice, applies for property tax relief through the Maine Property Tax Fairness Credit program, when available.

Housing Maximums. The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the DHHS, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305.

C) **Utilities.** Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 4.9.

Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds.

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (*see section 4.9 and 6.3*). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

Electricity Maximums for Households Without Electric Hot Water. See Appendix D of this ordinance for the current year's electricity maximums.

Electricity Maximums for Households that Use Electrically Heated Hot Water. See Appendix D of this ordinance for the current year's electricity maximums.

Non-Electric Utilities. The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate.

- D) **Fuel.** Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance.

See Appendix E of this ordinance for the current year's fuel maximums.

- E) **Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs and supplies for children under

5 years of age. See Appendix F of this ordinance for the current year's personal care and household supplies maximums.

F) **Other Basic Necessities.** Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

- 1) **Clothing.** The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.
- 2) **Medical.** The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential.

Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

- 3) **Hospital Bills.** In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the Hospital's Free Care Program as provided in Title 22 M.R.S.A. § 1716. Anyone who is not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for

assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.
- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide

assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.

- 6) **Telephone Charge.** A payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.
- 7) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (*see Appendix G for this year's maximum mileage allotment*). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- 8) **Travel Expenses.** In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.
- 9) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.

10) **Capital Improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:

- 1) the failure to do so would place the applicant(s) in emergency circumstances;
- 2) there are no other resources available to effect the capital repair; and
- 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection (B) “Liens”, above.

Section 6.9—Burials; Cremations

Funeral Director Must Give Timely Notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of three business days following the funeral director’ receipt of the body, whichever is earlier (22 M.R.S.A. §4313(2)). This contact by the funeral director shall begin the process of developing an application for

burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

Application for Assistance Shall be Calculated on Behalf of the Deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be completed by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

The Financial Responsibility of Certain Family Members. Grandparents, parents, children and grandchildren of the deceased, who live in Maine or own property in Maine,

are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses.

Consideration of the Financial Responsibility of Family Members. Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

Proration of Familial Responsibility. A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives.

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can

financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

Eight Days to Determine Eligibility. The administrator may take up to 8 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 8-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 8-day period allowed by law to unreasonably delay the municipality's decision.

The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute. The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

Burial Expenses. The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the maximum levels of assistance granted for the purpose of burials.

Cremation Expenses. In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator may issue general assistance for cremation services. See Appendix H for the maximum levels of assistance granted for the purpose of cremations.

Section 6.10—Notice of Decision

Written Decision. The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving a completed and signed application (22 M.R.S.A. § 4305(3)) (*see Article IV, section 4.6*).

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide to render a notice of “ineligibility” and provide the applicant with another application to submit as soon as is practicable for the applicant.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants’ right to a fair hearing in the written notice of decision.

Contents. After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 4.6 of this ordinance, the notice will state that applicants:

- a) have the right to a fair hearing and the method by which they may obtain a fair hearing and;

- b) have the right to contact the DHHS if they believe the municipality has violated the law. The decision will state the method for notifying the department.

Disbursement of General Assistance. Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash (22 M.R.S.A. § 4305(6)).

ARTICLE VII

The Fair Hearing

Section 7.1—Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his or her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision.

Section 7.2—Method of Obtaining a Fair Hearing

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

Written Request. To obtain a fair hearing, the claimant, or his or her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to grant, deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

- a) the decision on which review is sought;
- b) the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and

- c) the relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn (in writing) by the claimant.

Scheduling the Fair Hearing. Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

- a) be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
- b) confront and cross-examine any witnesses presented at the hearing against the claimant; and
- c) present witnesses on his or her own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case.

Section 7.3—The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the FHA , or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691 (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as FHA must:

- a) not have participated in the decision which is the subject of the appeal;
- b) be impartial;
- c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination; and
- d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

Section 7.4—Fair Hearing Procedure

When a claimant requesting a fair hearing is notified of the date, time, and place of the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case. The claimant shall be permitted to review his or her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S.A. § 4322).

Claimant's Failure to Appear. In the event the claimant fails to appear, the FHA will send a written notice to the claimant that the GA administrator's decision was not altered due to the claimant's failure to appear. Furthermore, the notice shall indicate that the claimant has 5 working days from receipt of the notice to submit to the GA administrator information demonstrating "just cause," for failing to appear.

For the purposes of a claimant's failure to appear at a fair hearing, examples of "just cause" include:

- a) a death or serious illness in the family;

- b) a personal illness which reasonably prevents the party from attending the hearing;
- c) an emergency or unforeseen event which reasonably prevents the party from attending the hearing;
- d) an obligation or responsibility which a reasonable person in the conduct of his or her affairs could reasonably conclude takes precedence over the attendance at the hearing; or
- e) lack of receipt of adequate or timely notice; excusable neglect, excusable inadvertence, or excusable mistake.

If the claimant (or their attorney) establishes just cause, the request for the hearing will be reinstated and a hearing rescheduled.

In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of 'fact' but may cross examine witnesses and make 'legal' arguments on behalf of the claimant.

Section 7.5—The Fair Hearing Decision

The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within 5 working days after completion of the hearing. Written notice of the decision will contain the following:

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;
- c) pertinent provisions in the law or general assistance ordinance related to the decision; and
- d) the decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, the assistance will be provided within 24 hours.

ARTICLE VIII

Recovery of Expenses

Recipients. The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall "offset" the value of any workfare performed by a GA recipient, at a rate not less than minimum wage.

Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

Recipients Anticipating Workers' Compensation Benefits. The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers' Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers' Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division.

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers' Compensation. Any general assistance applicant who has applied for or who is receiving Workers' Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required

signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

Recipients of SSI. All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

Relatives. The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, grandchildren, children, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).

ARTICLE IX

Severability

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

ADOPTED

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM**

TO: Holders of the Maine General Assistance Manual

FROM: Bethany Hamm, Director, Office for Family Independence

DATE: May 11, 2016

SUBJECT: **General Assistance Rule 19A** - OFI, General Assistance, 10-144 CMR 323
Maine General Assistance Policy Manual Section 3 Definitions (pages 4, 6) and
Section 5 Eligibility Factors (pages 1, 2)

Attached to this memorandum please find policy statement release(s) as described below:

SUBJECT: **General Assistance Rule 19A** - OFI, General Assistance, 10-144 CMR 323
Maine General Assistance Policy Manual Section 3 Definitions (pages 4, 6) and
Section 5 Eligibility Factors (pages 1, 2)

CONTENT: See attached

EFFECTIVE DATE: May 16, 2016

ADOPTED

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM**

TO: Program Administrators, Supervisors and Other Interested Parties

FROM: Ian Miller, General Assistance Program Manager

DATE: May 11, 2016

SUBJECT: **General Assistance Rule 19A - OFI**, General Assistance, 10-144 CMR 323
Maine General Assistance Policy Manual Section 3 Definitions (pages 4, 6) and
Section 5 Eligibility Factors (pages 1, 2)

This policy has been **ADOPTED** effective as of **May 16, 2016**.

Content:

This adopted rulemaking implements new classifications of eligible individuals for General Assistance as well as a 24 month time limit made by Public Law Chapter 324 (L.D. 369 – An Act to Clarify the Immigration Status of Noncitizens Eligible for General Assistance), passed by the 127th Legislature and codified under 22 M.R.S. §4301(3).

The rule creates eligibility guidelines for the two new classifications of individuals who are not U.S. Citizens, but are “lawfully present” or are “pursuing a lawful process for immigration relief.” The rule defines “lawfully present” as an individual described in 8 U.S.C. § 1621(a)(1)-(3). The second classification defines the individual “pursuing a lawful process to apply for immigration relief” as a person who has filed an application for immigration relief with the U.S. Citizenship and Immigration Services.

Under the rule, Department reimbursement to municipalities is conditioned upon adhering to reporting and verification requirements of “lawfully present” and “pursuing a lawful process” individuals. To receive reimbursement from the Department, municipalities are required to track and report assistance months only for those individual “pursuing a lawful process” to comply with the statutory 24 month time limit. There were several changes to the final rule which are detailed in the Summary of Comments and Responses.

The Department does not expect that there will be an impact on small businesses, and if there is, it is unknown at the time of this rulemaking.

The Municipalities will be impacted by having to expend thirty percent of grants to the two new classifications of individuals who are “lawfully present” and “pursuing a lawful process” (the Department will cover seventy percent).

EFFECTIVE DATE: May 16, 2016

SECTION III. DEFINITIONS

ALLOWABLE EXPENSES	The applicant's cost for basic necessities up to the maximum levels of assistance as provided in municipal ordinance (§4305(3-A)). In addition to items listed at 22 M.R.S.A. §4301(1) and (7)(B) allowable expenses include verified expenditures for mandated child support (e.g., DHHS court ordered).
APPLICATION FORM	A form provided by the administrator upon which a GA applicant provides the information required to make a determination of eligibility (§4308).
AVAILABLE RESOURCES	Any asset or resource that can be readily accessed to alleviate the need for General Assistance (§4317).
BACK BILLS	Charges for goods and services received prior to the current GA application. A bill that is due in the same month in which a GA application is made is not a back bill.
BASIC NECESSITIES	Food, clothing, shelter, fuel, electricity, non-elective medical services as recommended by a physician, non-prescription drugs, telephone where it is necessary for medical reasons, and any other commodity or service determined essential by the municipality. "Basic Necessities" do not include security deposits for rental property, except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for immediate payment of the security deposit or payment in full (§4301).
BUDGET	A mathematical calculation comparing income and expenses for the applicable time period.
CASE RECORD	Official file containing forms, correspondence, narrative records and all other relevant information pertaining to an applicant or recipient. The case record must include all signed GA applications, determinations of initial or subsequent eligibility, reasons for decisions, actions by the general assistance administrators, and types of assistance provided each recipient (§4306).

CIRCUITBREAKER	The Circuitbreaker program was terminated under Public Law 2013, ch. 368, part L. No benefits are allowed under 36 MRSA §6233 for an application filed on or after August 1, 2013.
DEFICIT	The difference resulting from subtracting a household's net income from the municipal overall maximum for the appropriate household size.
DHHS.	Department of Health and Human Services.
DWELLING UNIT	Building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (§4301(2)).
ELIGIBLE PERSON	A person qualified to receive general assistance from the municipality or DHHS according to the standards of eligibility set forth in statute, DHHS policy, and municipal ordinance (§4301(3)). A fugitive from justice is not eligible for general assistance.
EMERGENCY	Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person; or at the municipality's option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the municipality if not resolved immediately
FAMILY DEVELOPMENT ACCOUNTS	Savings Accounts that are established, Pursuant to Maine Public Law 518, for the following specific purposes: education, job training, purchase or repair of a home, purchase or repair of a vehicle needed to access work or education, capitalization of a small business for a family member over 18, health care costs over \$500 not covered by private or public insurance, and expenses for an emergency that may cause the loss of shelter, employment, or other basic necessities. The first \$10,000 of funds and any accrued interest in an FDA cannot be used when determining eligibility for General Assistance.

FEDERAL POVERTY LEVEL The measure defined by the federal Department of Health and Human Services that is updated annually by the federal government and published in the Federal Register. An individual may locate the Federal Poverty Level (FPL) for any year, including the current year, by Internet access at: <http://aspe.hhs.gov/poverty/05poverty/shtml>. An individual can also receive a copy of the current FPL by contacting his/her local DHHS office, or by writing to the General Assistance Program Manager and requesting a copy. Any municipality administering a GA program will also have copies of the FPLs for all applicable years.

**GENERAL ASSISTANCE
PROGRAM**

A mandatory program administered by a municipality and DHHS for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. The general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of the municipality or DHHS to provide general assistance to a person each time that the person has need and is found to be otherwise eligible to receive general assistance (§4301(5)).

HOUSEHOLD

An individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established herein. The income of household members not legally liable or otherwise responsible for supporting the household shall be considered as available to the applicant only when there is pooling of income. The municipality shall presume pooling of income unless the applicant proves otherwise (§4301(6)).

HOUSING ASSISTANCE	Payments made by, or on behalf of an individual for rent or mortgage.
INCOME	<p>Any form of income in cash or in kind (as defined below) received by the household including net remuneration for services performed, cash received on either secured or unsecured credit, any payments received as an annuity, retirement, or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security, and any other payments from governmental sources, unless specifically prohibited by any law or regulation, support payments, income from pension or trust funds and household income from any other source, including relatives or unrelated household members and any benefit received pursuant to Title 26, chapter 907 and Title 36, section 5219-II (see property tax fairness credit below). For repeat applicants, it also includes unverified expenditures or misspent money from the 30 day period prior to application (§4301(7)). Exception: Support Services Payments that are available to ASPIRE program participants are not to be counted as income in the time of intended use.</p>
IN KIND INCOME	Payments made to or on behalf of an applicant either monetary or in the form of a commodity.
JUST CAUSE	A valid, verifiable reason that hinders an individual in complying with one or more conditions of eligibility.
LAWFULLY PRESENT	<p>Individuals described in 8 U.S.C. § 1621(a)(1)-(3):</p> <ol style="list-style-type: none">(1) A qualified alien (as defined in section 1641 of this title),(2) A nonimmigrant under the Immigration and Nationality Act [8 U.S.C. §1101 et seq.], or(3) An alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. §1182(d)(5)] for less than one year.
LUMP SUM PAYMENT	<p>A one-time payment issued to an applicant or recipient prior to or subsequent to applying for General Assistance. Lump sum payment includes, but is not limited to: retroactive or settlement portions of social security benefits, worker's compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after</p>

payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a non-liquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. Funds contributed to Family Development Accounts (see above) are also not to be considered lump sums (§4301(8-A)).

MAINECARE	MaineCare is the name of Maine's Medicaid Program.
MAXIMUM LEVEL OF ASSISTANCE	The amount of assistance as established by ordinance or the actual cost of a basic necessity, whichever is less (§4305(3a)).
MUNICIPALITY OF RESPONSIBILITY	The municipality which is liable for the support of any eligible person at the time of application (§4301(9)).
NARRATIVE STATEMENT	A brief, written explanation.
NEED	The condition whereby a person's income, money, property, credit, assets, or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance established by the municipal ordinance (§4301(10)).
NET GENERAL ASSISTANCE COST	The total amount of General Assistance paid by a municipality (§4301(11)).
NET INCOME	For initial applicants includes 30 day projected income excluding work related expenses from earned income. For repeat applicants, includes 30 day projected income excluding work related expenses from earned income and income either misspent or not accounted for during the prior 30 day period (§4315-A).

PERIOD OF ELIGIBILITY	The time for which a person has been granted assistance. Such period shall commence on the date of application for assistance and shall continue for the period stated on the decision. The period of eligibility may vary depending on the type of assistance provided; however, in no event shall such a period extend beyond one month (§4309(1)).
POOLING OF INCOME	The financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. It is a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumption of pooling income by providing verification that they are not doing so (§4301(12-A)).
POTENTIAL RESOURCES	Sources of financial assistance, including programs, services, non-liquid assets or trusts which typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released (§4317).
PROPERTY TAX FAIRNESS CREDIT	For tax years beginning on or after January 1, 2013, a Maine resident individual is allowed a property tax fairness credit as computed by the Maine Revenue Service (36 MRSA §5219-II). Any benefit received under Title 36, chapter 907 and Title 36, Section 5219-II, unless used for basic necessities as described above, will counted as income.
PURSuing A LAwFUL PROCEss TO APPLy FOR IMMIGRATION RELIEF	Anyone who has filed an application for immigration relief with the U.S. Citizenship and Immigration Services.
REAL ESTATE	Any land, buildings, homes, mobile homes, and any other things affixed to that land (§4301(13)).

RECIPIENT	A person who has applied for and is currently receiving general assistance.
RESIDENT	A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence (§4307(2A)). A person who applies for assistance who is not a resident of that municipality nor any other municipality is the responsibility of the municipality where that person first applies (§4307(2B)). That municipality must take an application and grant assistance to the applicant if he/she is eligible until he/she establishes a new residence in another municipality.
TANF	Temporary Assistance for Needy Families
THRESHOLD	Threshold amounts are used solely to determine DHHS reimbursement for municipalities and in no way apply to the amount a municipality must expend on GA.
UNMET NEED	The difference resulting from subtracting a household's projected 30 day net income from the household's 30 day need, which is the sum of the client's actual 30 day expenses for basic necessities, up to the specific ordinance maximums.
UNNECESSARY COST	An additional cost that a client may incur to cover a basic need such as a late fee or a court fee being added on to an eviction

SECTION V. ELIGIBILITY FACTORS

22 M.R.S.A. §4309(1) limits the period of eligibility. The period of eligibility shall not exceed one month. The one month period is the maximum period of eligibility a municipality may use in determining eligibility.

A municipality may choose to determine eligibility for periods less than one month. Municipalities are strongly advised to limit the length of eligibility for all new applicants. This will enable the applicant to take advantage of the intake and referral system which may be available in the larger municipalities.

Each time the eligibility period has expired, the applicant must have his eligibility re-determined. Every redetermination is considered a new application (§4309). Every application will stand on its own merit regardless of past decisions i.e., in the event an error was made in the past and GA was provided when it should not have been, this does not set a precedent for prospective determinations.

If eligibility is determined on a weekly or daily basis, the municipality must calculate the amount of the unmet need using figures applicable to that same time period.

If eligibility has been determined for a thirty-day period but assistance is given for shorter intervals, the municipality shall not be required to re-determine eligibility during that time period.

Nothing in this section shall prohibit a municipality from re-determining eligibility at any time during that thirty-day period in accordance with 22 M.R.S.A. §4309(2).

Any person eligible pursuant to 22 M.R.S. § 4301(3) who makes an application for assistance, who has never applied for assistance in any municipality or unorganized territory within the state, shall have his eligibility determined solely on the basis of need as defined in 22 M.R.S.A. §4301(10).

When projecting weekly income for the eligibility period, there is no need to use the 4.3 weekly multiplier. Other programs, such as Food Stamps and TANF, use the multiplier to get a monthly average because the recipient's eligibility is determined for a period of time beyond a month. For General Assistance purposes, use actual expected pay dates for projection as the eligibility period cannot extend beyond one month. Applicants, or employers, should be able to determine number of income payments to be received during the next month.

Decisions are to be rendered within 24 hours of application (§4304). If there is insufficient or questionable information and a determination of eligibility cannot be made, a denial should be issued based upon the fact that the administrator is unable to determine eligibility. The denial should note what information is necessary. In addition, when the next business day falls outside the 24-hour time frame (e.g., the applicant applies at 4:00 p.m. on Friday) a denial should be issued (unless sufficient information on which to determine eligibility is provided). In such a situation, the applicant should be directed to obtain the necessary information and re-apply the next business day. In the event of an "emergency" sufficient assistance to alleviate the emergency should be provided until the next business day.

FUGITIVE FROM JUSTICE – A fugitive from justice as that term is defined in Title 15, MRSA section 201, subsection 4, is not eligible for general assistance.

IMMIGRATION STATUS – Lawfully present persons and those pursuing a lawful process for immigration relief are eligible for general assistance, provided that they meet all other eligibility requirements. Those pursuing a lawful process for immigration relief have a lifetime eligibility limit of 24 months. Only months of assistance provided after July 1, 2015 will be counted towards this limit.

VERIFICATION, RECORDS RETENTION, AND REPORTING RESPONSIBILITIES – Municipalities will not receive reimbursement for expenditures for those lawfully present or pursuing immigration relief unless:

- 1) The recipient has provided to the municipality documentation from a court of competent jurisdiction or federal agency verifying that the applicant is lawfully present in accordance with Section 3 of this manual, or from the U.S. Citizenship and Immigration Services (USCIS), a court order or other court issued documentation verifying that the individual is pursuing a lawful process for immigration relief in accordance with Section 3 of this manual.

The municipality will retain this documentation for a period of no less than three years;

- 2) For an individual eligible as pursuing a lawful process for immigration relief the municipality tracks and documents the number of assistance months received by that individual in that municipality; and
- 3) The municipality provides with its reimbursement request to the Department the names, alien numbers and numbers of assistance months received in that municipality for all G.A. recipients eligible as pursuing a lawful process included in that request.

ADDRESS CONFIDENTIALITY PROGRAM

The Address Confidentiality Program (ACP), administered by the Secretary of State, provides address confidentiality for victims of domestic violence, stalking or sexual assault and requires state and local agencies and the courts to accept a designated address as the program participant's address when creating a public record. When an applicant or recipient verifies that they are a certified participant in the Address Confidentiality Program, the designated address is the only address accepted and provided. Any correspondence with the applicant or recipient is sent to the designated address. If the municipality releases information by permission from the applicant or recipient or due to a subpoena, the only address to be provided is the designated address.

EMERGENCY APPLICATIONS FOR ASSISTANCE

It is the responsibility of the applicant to supply the municipality with any information necessary to determine if an eligible household is in an emergency situation (§4309(a-A)). The municipality may determine that there is an emergency that if not alleviated immediately could pose a threat to the health and safety of the applicant or a member of the household. The municipality may also determine that an emergency is imminent and that the failure of the municipality to provide assistance may result in undue hardship and unnecessary cost (§4308(2)). An example of an undue hardship would be the client incurring court costs for an eviction notice that could have been averted by the municipality assisting the client with the past due rent when the landlord threatened eviction. An example of an unnecessary cost would be court cost added on to the eviction. Once the municipality determines that there is an emergency or an imminent emergency, assistance adequate to alleviate the emergency must be granted. The fact that the municipality has 24 hours to grant or deny an application should not be used to create an unnecessary waiting period. If all the information necessary to make a determination is available the municipality must grant the assistance immediately.

If, after discussion between the applicant and the municipality it is determined that an emergency does exist, the municipality must ensure that the client is allowed to apply for assistance the same day. If there is an emergency and the applicant is eligible, the emergency must be alleviated without undue delay. Delivery of services the same day may be required. If it is determined that there is an imminent emergency, the municipality must ensure that the client is allowed to apply for assistance as soon as possible to ensure that there is not undue hardship or unnecessary cost. Delivery of services should take place as soon as possible.

At times municipalities may find it necessary to disregard their maximum levels of assistance to provide assistance during an emergency or an imminent emergency situation (§4308(2)). It is not necessary to provide long term assistance or a permanent solution in an emergency. Assistance of a type and amount that will alleviate the immediate threat to life and safety or that will help to alleviate any undue hardship or unnecessary cost will suffice.

There are two situations when a municipality cannot grant assistance during the emergency situation: (4308(2)):

- 1) When a household member is currently disqualified for false representation, not meeting work requirements, or not using potential resources do not grant assistance to the disqualified member. Remaining household members may be eligible.
- 2) When the household members could have averted the emergency situation by using their income or resources for basic necessities the municipality is not required to grant assistance. To determine if the household could have averted the emergency situation the municipality must determine eligibility and calculate the amount which the household would have been eligible for in each month involved. Example: A woman with one child living in Androscoggin county gets an eviction notice in September. The eviction has been given because the woman did not pay her rent in July or August. The monthly rent is \$250 including all utilities. The woman needs to pay the \$500 back rent or be evicted. The only income the woman has is her SSI of \$500 and TANF of \$131 for her child. The woman is a repeat applicant. The maximum allotment for a household of two in Androscoggin county is \$428.

JULY	AUGUST	SEPTEMBER
\$428 Maximum	\$428 Maximum	\$428 Maximum
<u>- 631 Income</u>	<u>- 631 Income</u>	<u>- 631 Income</u>
0 Deficit	0 Deficit	0 Deficit

After the Deficit Budget is completed, the municipality must do the Unmet Need Budget. The woman's allowable expenses are: \$230 for food (the Food Stamp Maximum for two), \$250 for rent (the maximum in Androscoggin county is \$347), \$35 for personal. \$10 for medical co-pays (the woman receives MaineCare but she is responsible for the co-pay), and \$45 for diapers since her child is only one.

JULY	AUGUST	SEPTEMBER
\$230 Food	\$230 Food	\$230 Food
250 Rent	250 Rent	250 Rent
35 Personal	35 Personal	35 Personal
45 Diapers	45 Diapers	45 Diapers
10 <u>Medical CO-pay</u>	10 <u>Medical CO-pay</u>	10 <u>Medical CO-pay</u>
\$570 Allowed Expenses	\$570 Allowed Expenses	\$570 Allowed Expenses
<u>-631 Total Income</u>	<u>-631 Total Income</u>	<u>-631 Total Income</u>
0 Unmet Need	0 Unmet Need	0 Unmet Need

This client did not have either a deficit or an unmet need in either of the months involved in the eviction. The municipality does not have to assist her. Note: the municipality may assist to prevent an emergency situation. If the municipality elects to provide assistance, the municipality must document the reason for providing such assistance.

VERIFICATION OF INCOME

Upon receiving earned income verification, usually in the form of check stubs, the administrator shall ascertain whether the deductions are optional (§4301(7-B)). Deductions for deposits to banks or credit unions; payments for optional services; and payments for loans or other creditors, except for court or DHHS ordered child support/alimony payments are to be considered optional. Optional deductions for health or dental insurance to be considered as allowable expenses are to be determined at the local level and based upon the cost effectiveness of the expense. If deposits are made to a financial institution, the assets must be considered as available.

If a student of post-secondary education, other than those involved with Department of Labor or Department of Health and Human Services' programs, applies for General Assistance, the applicant must be available to seek and accept full-time employment (§4316(3-E)). The student applicant would not be exempt from any requirements of the program. If a student of post-secondary education applies for General Assistance all income must be considered available except for financial aid provided through the school system which is specifically earmarked for required expenditures such as tuition, books, lab fees, etc. Availability of financial aid for room and board must be considered. Verification of financial aid must be received by the administrator. It is the applicant's responsibility to provide the necessary information.

Municipalities should require applicants to provide detailed financial aid information to determine that which is specifically earmarked for school and which portion is, or can be used, for living expenses.

Support Service payments received by ASPIRE participants are not to be counted as income whether paid directly to the vendor or issued to the ASPIRE participant through Electronic Benefit Transfer (EBT) during the time of the intended use.

Income deemed available to an applicant during the application process due to unverified expenditures in the previous 30 day period may change during the next 30 days. If the applicant can submit missing verification and it is found to be acceptable, eligibility may be determined using the 30 day period from the original application date.

Income deemed available to a repeat applicant during the application process due to misspent expenditures in the previous 30 day period is to be considered available to the applicant. This may create a 30-day ineligibility period (§4315-A).

An applicant who is found to ineligible for unemployment compensation benefits because of a finding of fraud by the Department of Labor pursuant to Title 26, section 1051, subsection 1, is ineligible to receive general assistance to replace the forfeited unemployment compensation benefits for the duration of the forfeiture established by the Department of Labor.

If an applicant, whether an initial or repeat applicant, receives a lump sum payment and cannot verify the amount, date of receipt and expenditures from the lump sum, a denial can be placed on the case for up to twelve months from the application date unless the information is received. If the date of receipt and amount are known, but expenditures are not, the length of denial should not be longer than what the amount allows, beginning with the date of application (§4301(7)).

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance solely on the basis of the proration of a lump sum payment. However, in such cases, subsequent applications are subject to the proration and all other standards established under GA law, regulations and municipal ordinance.

Lump sum payments are to be prorated over future months. The period of proration is determined by deducting any portion of the lump sum that the applicant or recipient can verify was spent on basic necessities. Basic necessities include, but are not limited to, all basic necessities allowed by General Assistance; reasonable funeral and burial expenses for a family member; reasonable travel costs related to an illness or death of a family member; repair and replacement of essentials lost due to fire, flood, or other natural disaster; repair or purchase of a vehicle essential for employment, education, training, or other day-to-day living necessities; repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid.

All income received by the household between the receipt of the lump sum payment and the application for assistance is added to the remainder of the lump sum and the total is then prorated. The period of proration is then determined by dividing this total by the verified actual prospective thirty day budget for all of the household's basic necessities.

The end result is the number of months in the proration period starting on the date the lump sum was received. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

Example

10/1/01	GA application date	
	Client requests assistance with utility	
	Household of (1)	
9/1/01	Lump Sum was received	= \$12,000
	Lump sum was an insurance settlement	
	Allowed Expenses:	
	Medical Bills	\$ 4,500
	Rent	\$ 1,000
	Travel Costs (Medical)	\$ 100
	Car Purchased for new job	\$ 4,000
	VISA payment (verified paid on utilities)	\$ 140
	Food (2 months)	\$ 270
	Personal	<u>\$ 70</u>
		\$10,080
		\$12,000
		<u>-\$10,080</u>
		\$ 1,920
8/6/01	Client started job	
	net wages = \$95.00 weekly x 4 weeks	+\$ 380
		\$ 2,300

Example

Verified actual 30 day budget for basic necessities:

Rent	\$ 850
Food	\$ 235
Lights	\$ 95
Personal	\$ 55
Medical	<u>\$ 60</u>
	\$1,295

$\$2,300 \div \$1,295 = 1.8$
(1 month + 24 days)

Client would be eligible on 10/25/01.

If client requests assistance because of a utility disconnect and is an initial applicant, the client may be granted to alleviate the emergency as long as all other eligibility is met.

Earned income tax credit (E.I.T.C.) is an available resource for low income persons who have had a work history within the past year. Applicants should be required to apply for this resource and to report the tax credit when received, if they meet this criteria (§4317).

ALLOWABLE EXPENSES

When determining prospective earned income, necessary work-related transportation and dependent care costs should be deducted from the prospective earned income. Do not deduct work-related expenses from unearned income (§4301 (7B)).

Unless otherwise specified in the municipal ordinance, the budgeted allowances for all transportation costs are to be capped at the allowed mileage rate in the ordinance. Expenses for vehicle registration, payments, insurance, repairs and emission control testing are included as part of that mileage allowance. All allowable work-related expenses are to be deducted from earned income before applying the income to the tests to determine the deficit or unmet need.

The expenditures for transportation, when determining a repeat applicant's use of income for the previous 30-day period is subjective. If public transportation is available, the need for allowances for transportation should not exceed the bus fare, etc. If the applicant is not working and has a vehicle, it should be determined whether or not the applicant can get to a food store or to a doctor, when necessary, by means other than the applicant's vehicle. Such elements as distance, remoteness, availability of family and neighbors should be factored into a decision.

For example, Jill Osborn has two children and lives in a municipality that provides no public transportation. She works twenty hours a week at minimum wage. She lives five miles from work and has no neighbors or family to provide transportation needs. The administrator budgets \$.28 a mile (current cap in ordinance) for the transportation expense and deducts this amount from her net income. When verifying use of income for the past 30 days, Jill verifies that she had registered her vehicle for \$76 and paid \$50 for mandatory car insurance. The administrator decided that since it was necessary for Jill to have transportation to continue working, the expenditures for car registration and car insurance were allowable. These expenditures were not considered to be misspent.

It is important to project transportation costs at the capped mileage rate and child care costs as work related expenses when budgeting. It is equally important to allow reasonable, verified transportation expenditures when determining use of income for the past thirty days.

In another example, Julie Jones is a mother with one child. She lives near the center of town where she can easily obtain food and medical care. Her only income is TANF. When projecting the budget for the eligibility period, she is not allowed any mileage for transportation as she is not employed. When determining use of income, Julie verifies that she registered and insured her vehicle. Since the vehicle is not a necessity in this situation, expenditures for the vehicle should not be considered allowable and the monies used should be considered as still available to her.

Child support payments, when ordered by the court or Department of Health and Human Services, should be an allowable expense if verified as being made. Any payment made in excess of the ordered amount is to be considered as still available to the applicant's household. If, as the result of making the ordered payment, the applicant is eligible for General Assistance, a requirement should be made to petition the Department of Health and Human Services or the court, whichever is appropriate, to get the ordered payment lowered.

When deciding which payments made are allowable expenses, only the basic amount should be considered. For example, when a telephone is medically necessary, only allow the basic rate (§4301(1)). Do not allow long distance calls unless made to a physician. Do not allow additional insurance coverage necessary due to driving convictions such as OUI offenses or poor driving record.

VERIFICATION OF EXPENDITURES

Applicant(s) will be responsible for providing any and all information and documentation concerning need including, but not limited to, resources, assets, employment, income and use thereof, expenses and any changes in information previously given for all members of the household that would affect eligibility for all members (§4309(1A)). For repeat applicants, in regard to receipts, all available receipts should be seen by the administrator (§4315-A). The administrator may or may not retain copies of the receipts in the case file. Documentation that receipts were seen should be included in the case file.

When receipts are not available, other methods may be used to verify use of income such as phone calls made to utility companies, fuel dealers and landlords. Written, signed statements from a vendor are acceptable. Municipalities which require receipts for purchases of food and/or household supplies should inform applicants that these receipts will be required. Receipts for food may show that some of the food was purchased with Food Stamps. This portion would not be considered in determining use of income.

When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The pro rata share is calculated by dividing the maximum level of assistance available to the entire household by the total number of household members. Income of household members not legally liable for supporting the household member is considered available to the applicant only when there is a pooling of resources.

In kind contributions to the household or on behalf of the household are to be considered income and, therefore, are subject to verification procedures (§4301(7)). If the household income is verified as being spent on basic necessities, any additional payments made by others on behalf of the household is still to be considered as available income. Accordingly, in kind payments and payments for cable, credit card debt, personal loans, car payments, all fines including court fines and related court costs, etc. are to be considered as misspent.

Misspent income includes income-in-kind received, or paid for, by a General Assistance repeat applicant from sources, including friends or relatives, for the payment of bills not considered to be necessary such as cable bills, credit card debt, fines, tobacco and alcohol products, etc. and will be considered as available to the applicant when determining use of income for the previous 30 day period (§4315-A).

Income expended that cannot be verified is to be added to the 30 day prospective income. Income expended for unallowable expenses, verified or not, is to be considered misspent income and is to be added to the 30-day prospective income (§4315-A).

For example, a REPEAT applicant applies on June 19 and the only income is \$418 TANF. She would need to verify expenditures for the TANF check received in June. She has a rent receipt dated June 4 for \$350.00 and a cable receipt dated June 7 for \$14.00. She has no other receipts. She states she has used no cash for food because her Food Stamps were sufficient. She says she paid \$30.00 on her light bill, but has no receipt. A telephone call to the power company confirms a \$30.00 payment on June 10.

Type of Income Amount	
TANF	\$418.00
Income Rec'd not spent on basic necessities	\$38.00
Total monthly household income	\$456.00

(Dates of payment are very important. A payment to the power company on May 26 would not explain expenditures made with income received within the last 30 days and would not be considered.)

In this example, the verified expenditures for the income received within the prior 30 days total \$394.00. Of this amount, \$14.00 was verified as an unallowable expenditure. Of her total income, \$380.00 was verified as being spent on allowable expenses. The remaining income of \$38.00 (\$14.00 verified, but not allowed, and \$24.00 not accounted for) is to be considered as still available. Her prospective income for the next 30 days is to be \$456.00.

This includes her July TANF of \$418, verified misspent money of \$14.00 and unverified expenditure of \$24.00.

INTERIM ASSISTANCE

The Department has entered into an agreement with the Social Security Administration to institute an Interim Assistance Reimbursement program to repay state and local funds expended for assistance to Supplemental Security Income (SSI) applicant/recipients while the SSI payments are pending or suspended. Under this agreement, any General Assistance funds provided for an individual who is found eligible for SSI must be repaid from the retroactive SSI check (§4318).

There are two types of authorization. The initial payment authorization is used for individuals who have not received SSI payments or whose benefits have been terminated for at least one year. The post-eligibility authorization is used for individuals whose eligibility for SSI has been suspended or terminated for less than one year.

Municipal General Assistance Administrators must seek authorization from each applicant who, to the Administrator's knowledge, may be eligible for SSI, has applied for SSI, or who is waiting for benefits which have been suspended. The Department of Health and Human Services has the responsibility to provide the necessary forms to initiate this agreement. As a condition of eligibility, written authorization to have the retroactive SSI check sent to the State must be given by the recipient. Failure to provide written authorization will result in the denial of General Assistance for the recipient until the authorization is signed. Assistance will be provided for the time period beginning with the date that the authorization is signed.

If two or more people are applying for SSI, each must sign a separate authorization form.

If the SSI applicant is a child, the authorization form is completed and signed by the parent ("Mary Smith for John Smith, Jr.-Son"). The Social Security number is that of the child.

If an individual is already receiving SSI, an authorization does not need to be signed. The authorization form is used only to deduct monies from a retroactive SSI payment. Current SSI payments are not affected. If a client's SSI monthly payments are suspended or terminated, the client should be required to appeal or file again. The individual must sign a **post-eligibility authorization** for reimbursement of moneys from a potential lump sum.

There are two check off boxes on the authorization form. One box is for the initial payment authorization and one box is for the post-eligibility authorization. The form is to be used for only one payment. Only one box can be checked off. If both boxes are checked off the form is not binding on the state or the client.

The authorization form has 4 sheets. The Department is sent the original. Copies are sent to the local Social Security Office, the client, and the client's file. The signed authorization form must arrive at the Social Security Office within 30 (thirty) days of the signing or the form is no longer binding and a new form must be signed. The municipality and the State could recoup only for any assistance granted after the second form was signed. The municipality and the State would lose any reimbursement for assistance given before the date on the form that was received at the Social Security Office within the thirty (30) days of being signed.

Federal regulations require the Department of Health and Human Services to issue any difference between the SSI retroactive lump sum payment and the General Assistance provided for the individual to the client or the representative payee within ten working days of receipt of the retroactive payment.

When the SSA notifies the Department that an individual has been found eligible for SSI benefits and will be receiving a retroactive check, the Department will request the following information from the municipality **by month for each month of receipt**:

- a. 1. The amount of General Assistance provided for the individual.
 - ☐ Most individuals are one-member households, however, if the individual receiving the SSI retroactive check is part of a household which received General Assistance, only the prorated amount of the General Assistance that was for the SSI recipient is reimbursed to the State and municipality. In other words, if the individual is part of a four person household, only one-fourth of the General Assistance benefit is reported for reimbursement purposes. Any General Assistance benefit provided specifically for the SSI recipient is added to the prorated amount.
2. The number of hours that the individual performed workfare for the municipality and the monetary value placed on each hour of workfare performed. The individual must be credited with at least minimum wage for each hour of workfare. **The value of workfare performed by the individual during the applicable time period will be subtracted from the General Assistance amount reported in 1. above.**
3. The percent of reimbursement that the municipality previously received from the State for General Assistance payments made for the client.

Once the Department has received the information from the municipality, a check will be issued to the municipality and to the individual. The amount of the check to the individual will be the amount of the retroactive SSI check, minus the amount of General Assistance paid on behalf of the client (after the value of any workfare performed by the individual during the applicable time period has been subtracted). The Department will follow the instructions of the Interim Assistance Reimbursement Handbook as provided by the Social Security Administration. There will be times when the amount of General Assistance reimbursed is less than the amount provided. The Department is not responsible when the client's share, if any, is insufficient to cover any debts incurred by the client during or prior to the interim period, including attorney's fees.

The amount of the check to the municipality will be the applicable percent of reimbursement for the month that General Assistance was provided for the General Assistance amount minus the

value of workfare by the individual. If the State has already reimbursed the municipality for 100% of the value of the General Assistance benefit minus the value of the workfare, no further reimbursement will be made to the municipality.

If the amount of deduction, reimbursement to the client, or reimbursement to the municipality is found to be the wrong amount and the municipality has been overpaid, the municipality must issue a check to the Treasurer, State of Maine or ask the Department to withhold from future reimbursements the appropriate amount.

Note: The amount of reimbursement received by the municipality through the Interim Assistance Reimbursement agreement is not to be reported back to the Department on the 099 (Statistical Report). These reimbursements are not reported as reimbursement received directly from clients or from other municipalities.

If the client is found eligible for SSI benefits and the SSI retroactive payment is sent to the client in error instead of to the State, the municipality can seek to collect this amount from the client through civil court action or other legal remedy. §4318

PARENTAL/SPOUSAL RESPONSIBILITY

A municipality MAY contact the parent(s) of any applicant for general assistance who is under the age of 25 and whose parent(s) live in or own property in the State of Maine. The purpose of this contact is to determine the ability of the parent(s) to financially support the applicant. Parents should be informed of their financial responsibility. If the parents are willing to provide assistance for the applicant, the application may be denied (§4319(1)).

Spouses of applicants are financially responsible for each other. Spouses may be contacted to determine their ability to financially support the applicant if the spouse lives in or owns property in the State of Maine (§4319(1)).

In determining the ability to pay, whether it is a parental or a spousal responsibility, the municipality should consider actual expenses of the parent(s) or spouse and not use the maximum limits for basic necessities as used for the general assistance applicant.

IN NO EVENT SHOULD A PARENT OR SPOUSE BE CONTACTED IF THE SEPARATION INVOLVES ANY TYPE OF DOCUMENTED ABUSE - PHYSICAL, MENTAL OR EMOTIONAL. Documentation may be supplied by DHHS, police, counselors, etc. Sometimes the abuse is evident to the administrator through apparent bruises or knowledge of the applicant's family history.

In instances when the applicant's parents or spouses will be contacted about financial responsibility, the applicant should be informed of the potential contact and why. Applicants have the right to withdraw their application if they do not want certain contacts made.

Parents or spouses who refuse to provide financial information may be billed for the assistance issued on behalf of their children or spouse (§4318).

Applicants should not be denied solely because parents or spouses refuse to release financial information.

PREGNANT MINORS OR MINORS WITH CHILDREN

Minors: A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

- 1) the minor is residing in a foster home, maternity home, or other adult supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the parents are unknown; or
- 3) no parent will permit the minor to live in the parent's home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- 5) the Department of Health and Human Services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the Department of Health and Human Services determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. §4309.4).

MUNICIPAL WORK PROGRAM

As a condition of eligibility, a municipality may require an otherwise eligible person who is capable of working to perform work for the municipality or work for a nonprofit organization which has agreed to participate in the municipal work program. (also known as Workfare) Such work cannot be used to replace regular employees of the municipality or nonprofit organization (§4316-A(2)).

The municipality may also, as part of the municipal work program, require individuals to participate in training, educational or rehabilitative programs that would assist the recipient in securing employment (§4316-A(2)). Participation in such training, educational or rehabilitative programs will not be considered workfare for reimbursement purposes if the participant is able to repay the municipality back in the future.

The maximum length of time which can be required of a participant in a municipal work program is determined by dividing the General Assistance benefit by an amount equal to at least the minimum wage (§4316-A(2A)).

An individual cannot be required to work for a nonprofit organization if that work would violate the individual's basic religious belief (§4316-A(2B)).

Once assignment is made to the municipal work program or a work requirement is made, an applicant is responsible for completing the assignment. If subsequent action(s) by the individual result in incarceration which results in the inability of the individual to complete the assignment, just cause will not be granted. Failure to fulfill any eligibility requirement due to incarceration as a result of an applicant's action after the requirement has been made will not result in good cause. The individual cannot be assigned work which is beyond the physical or mental capabilities of the individual (§4316-A(2G)).

Expenses related to work performed under this section must be considered in determining the amount of General Assistance to be provided to the individual (§4316-A(2E)).

The municipality must identify General Assistance provided for work performed by an individual participating in the municipal work program (§4316-A(2)).

Individuals in need of emergency assistance cannot be required to perform work prior to receiving General Assistance. An individual who is not in need of emergency assistance may be required to fulfill a workfare requirement satisfactorily prior to receiving the nonemergency assistance. This requirement is known as “workfare first”. Workfare first is a condition of current assistance. Participation in the municipal work program is a conditional requirement for future General Assistance (§4316-A(2)).

The amount or value of workfare performed does lessen the amount for which the applicant can repay such as, in the cases of a Workers’ Compensation settlement or an SSI retroactive payment. When a client who has signed a lien is awarded a Workers’ Compensation award, the value of the work performed in the municipal work program during the applicable time frame is deducted from the amount of the General Assistance paid out on behalf of the client prior to reimbursement. Clients who sign an Interim Agreement Reimbursement agreement and then receive an SSI retroactive payment will have the value of the work performed in the municipal work program during the applicable time period deducted from the amount of General Assistance paid out on their behalf prior to reimbursement. (See Interim Assistance) Workfare clients are not employees of the municipality and therefore are not covered under Workers’ Compensation. Medical bills for workfare injuries not due to municipal negligence are to be submitted to the Department.

DISQUALIFICATIONS

When applicants for General Assistance are disqualified, regardless of the reason, written disqualification notices are to be sent to the GA applicant/recipient as soon as the infraction is known. Municipalities should not wait for the client to reapply or to come in on their own. Disqualification notices are to give the reason for the disqualification, the time period involved, information regarding the establishment of good cause and fair hearing rights (§4321).

Disqualifications are effective statewide. Disqualified recipients are not to be found eligible for General Assistance anywhere in the state unless the disqualification is lifted by the municipality which initiated the disqualifications. In no event may a disqualification period exceed 120 days per application.

The Department has a statewide tracking system where municipalities should be reporting disqualified applicants. Municipalities should contact DHHS to verify whether applicants are currently disqualified by any other municipality.

The 120 day disqualification period due to non-compliance with any work requirements shall follow the applicant if he/she should apply elsewhere during the 120-day period unless he becomes employed or complies with the work requirements (§4316-A(4)). The 120-day disqualification period also affects false representation (§4315).

**Town of Baldwin
Growth Ordinance
Adopted March 8, 2003
Amended March 26, 2005**

1. Title

This ordinance shall be known as the "Growth Ordinance of the Town of Baldwin, Maine" and shall be referred to herein as the "Ordinance".

2. Legal Authority

This Ordinance is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution, 30-A M.R.S.A. section 3001 and 30-AM.R.S.A. section 4323.

3. Purpose

The purpose of these Amendments is to further protect the health, safety and general welfare of the residents of Baldwin by ensuring that applicants are fairly treated and that no person shall gain advantage in the permit process by commencing construction of a residential structure prior to obtaining a growth permit.

A. to provide for the immediate housing needs of the existing residents of the Town of Baldwin;

B. to ensure fairness in allocation of building permits;

C. to plan for continued residential population growth in Baldwin which will be compatible with orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, and waste disposal services;

D. to avoid circumstances in which the rapid development of new residences, potentially housing many families with school age children, would outpace the Town's, and region's, capability to expand its schools and other necessary services soon enough to avoid serious school overcrowding and a significant reduction in the level and quality of other municipal services.

4. Definitions

A. Applicant: The person or entity in whose name a growth permit application is submitted to the Code Enforcement Officer.

1) If the named applicant is a natural person, the term "applicant" shall also include: all persons related to the named applicant and all entities in which the named applicant, or

any person related to the named applicant, owns or controls a 10% or greater interest:

2) If the named applicant is other than a natural person, the term "applicant" shall also include: all persons related to stakeholders of the named applicant and all entities in which a stakeholder or any person related to a stakeholder owns or controls a 10% or greater interest.

B. Building permit: A permit issued by the Code Enforcement Officer pursuant to Article 4.2 of the Land Use Ordinance of the Town of Baldwin.

C. Code Enforcement Officer: The Town Of Baldwin Code Enforcement Officer, as defined in Article 2.2 of the Land Use Ordinance of the Town of Baldwin, or an authorized agent thereof

D. Dwelling Unit: A dwelling unit as defined in Article 2.2 of the Land Use Ordinance of the Town of Baldwin.

E. Elderly household: A household which includes at least one elderly person and no occupant less than 55 years of age other than a full-time caregiver to or a spouse Of companion of the elderly person.

F. Elderly person: A person aged 55 years or older.

G. Family Gift Lot; A lot which is not within a subdivision (as defined herein) and which has been created by a gift from a parent (or grandparent) to a child (including an adopted child, or stepchild or grandchild) or from a child (or grandchild) to a parent (including an adoptive parent; stepparent or grandparent:)

H. Gift: The conveyance of property for which the grantor receives no money, property or any other value as consideration for such conveyance.

I. Giftee: A person receiving a gift of a family gift lot.

J. Gifto: A person who gifts a family gift lot.

K. Growth Permit: A permit, issued in accordance with the provisions of this Ordinance, which allows the issuance of a building permit for the construction, creation or placement of one new dwelling unit within the Town of Baldwin.

L. Persons related to: A person who is a spouse, parent, brother, sister or child by blood, marriage or adoption.

M. Subdivision: A subdivision as defined in 30-A M.R.S.A. section 4401, as such may be amended from time to time, and approved by the Baldwin Planning Board pursuant to the Subdivision Ordinance on or after March 10, 2001.

5. Applicability

Except as provided in Section 6 below, this Ordinance shall apply to the construction, creation or placement of any new dwelling unit within the Town of Baldwin.

6. Exemptions

This Ordinance shall not apply to:

- A. the repair, replacement, reconstruction or alteration of an existing dwelling unit.
- B. construction of dwelling units in housing for the elderly which is constructed, operated, subsidized or funded (in whole or in part) by any agency of state or federal government.
- C. construction of dwelling units in the village commercial district as set forth by the Town of Baldwin's Zoning Map.
- D. a dwelling unit on a family gift lot, provided that the giftor has maintained legal ownership of the family gift lot for a minimum of five(5) consecutive years prior to the gift and provided that no more than one building permit can be issued to anyone giftee pursuant to this exemption during any rolling five (5) year period.

7. Administration

- A. Maximum number of growth permits per calendar year.

1. Commencing on January 1, 2004, the maximum number of growth permits issued between January 1st and December 31st each year shall be fifteen(15) plus any growth permit available at the end of the previous calendar year.

For the calendar year 2003 only, from March 8, 2003 to December 31, 2003, the maximum number of growth permits shall be Fifteen (15) minus the number of building permits issued during the calendar year 2003 before effective date of this Ordinance March 8, 2003.

2. Until October 1st of each year, no more than 4 growth permits shall be issued for lots Within subdivisions; and no more than 15 growth permits shall be issued for lots not within subdivisions.

Between October 1st and December 31st of each year, any growth permits not yet issued, up to the maximum number established by subparagraph 1 above, may be issued without regard to whether the lot for which application is made is "within a subdivision" or not within a subdivision.

3. During each calendar year no more than 4 growth permits shall be issued for lots within any one subdivision.

B. A growth permit application must be completed and signed by a record owner of the lot for which the growth permit is sought, on a Growth Permit Application form provided by the Code Enforcement Officer.

2. The growth permit application shall be accompanied by:

A. A nonrefundable application fee as specified in the Schedule of License, Permit and Application fees established by order of the Town Selectmen, which shall be credited toward the building permit fee if the growth permit is replaced by a building permit under Section 7 (C) (2) below;

B. A deed or other instrument establishing the applicants ownership interest in the property; and

C. either a copy of the completed subsurface wastewater disposal system application (Form HHE-200) for the lot for which the growth permit is sought or evidence that the lot will be served by public sewer.

3. The growth permit application shall be submitted to the Code Enforcement Officer either by mail or by hand during normal business hours at the Town Office. The Code Enforcement Officer shall endorse each application with the date and time of receipt. In the event two(2) or more growth permit applications are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.

4. The Code Enforcement Officer shall review growth permit applications for completeness and accuracy in the order in which they are received. If an application is incomplete, the Code Enforcement Officer shall notify the applicant of the additional information or material needed to complete the application and shall resume review of the application only when such additional information or materials are provided. Once the Code Enforcement Officer determines that an application is complete, he or she shall approve the application as complete, endorsing the date and time of such approval on the application.

5. A separate growth permit application is required for each dwelling unit.

6. No growth permit application shall be accepted from an applicant who already holds the maximum number of permits allowed under this Article, subsection D. If such an application is submitted, the application will be rejected and the Code Enforcement Officer shall notify the applicant of such.

7. No growth permit application shall be accepted by the Code Enforcement Officer within six(6) months of the commencement of any construction on the lot which was not authorized by a building permit at the time that such construction commenced.

8. The Code Enforcement Officer shall ensure that the issuance, or the reissuance (after surrender or expiration) of any growth permit, shall be part of a public process which is perceived to be fair by members of the public. To that end, no growth permit shall be issued

except at the time and place described in a public notice published at least seven(7) days prior to the date that such permits are made available to the public. To ensure that permits are issued first come, first served basis, the Code Enforcement Officer shall accept applications only from persons in the order that they first appear, or the order in which they are queued at the front entrance to said appointed place at the appointed time.

C. Issuance procedure

1) Growth permits shall be issued first- come, first-served basis according to the dates and times the applications are approved as complete by the Code Enforcement Officer under section 7 (B) (4) above. If a growth permits available under section 7 (A) on the date the Code Enforcement Officer approves an application as complete, the Code Enforcement Officer shall issue the growth permit by endorsing the date of issuance on the application and mailing a copy to the applicant at the address provided by the applicant on the application. If no growth permit is available at the time the application is approved as complete, the application shall remain pending, and as growth permits subsequently become available, the Code Enforcement Officer shall issue permit in the order in which the applications were approved as complete, mailing the issued permits to the applicants as provided above.

2) Once issued, a growth permit must be replaced by a building permit for construction, placement or creation of a dwelling on the specific lot for which the growth permit was issued, no later than 90 days after date of issuance. A growth permit may not be extended or renewed beyond 90 days after issuance. A growth permit which is not replaced by a building permit within such 90 day period shall automatically expire. If a growth permit expires, a subsequent application for a growth permit on the same lot shall be processed and ranked as a new application pursuant to Section 7 (B) above. Expired growth permits shall not be counted in determining the maximum number of permits which may be issued during any calendar year.

3)At the end of each calendar year: (a) if the number of approved applications for growth permits exceeds the number of permits available for issuance, such approved applications shall remain pending into the next calendar year and shall retain their ranking according to the order in which they were approved as complete; (b)if the number of available growth permits exceeds the number of growth permits issued, such unissued growth permits shall be added to the maximum number of growth permits available during the next calendar year.

4) At any time prior to the issuance of a building permit or the expiration of a growth permit, the holder of a growth permit may surrender the permit and receive a refund of 50% the growth permit fee. Surrendered growth permits shall not be counted. in determining the maximum number of permits which may be issued during any calendar year.

5) At any time after an application for a growth permit is made and prior to the issuance of a growth permit; the applicant may withdraw the application and receive a refund of 75% the growth permit fee.

D. Applicant maximums

There will be a limit of three (3) growth permits issued per applicant per calendar year. No applicant may hold more than two (2) unused growth permits at anyone time. For the purposes of this section, a growth permit shall be considered "used" when the Code Enforcement Officer has issued a certificate of occupancy for the dwelling unit for which it was issued.

E. Transferability

Growth permits are issued only for a specific lot identified in the growth permit application. A growth permit may be transferred to a new owner of the lot; provided notice of the transfer of ownership is given in writing to the Code Enforcement Officer before the growth permit is replaced by a building permit and transfer does not result in anyone person having more growth permits than allowed under this Article. Transfer of ownership does not change the date of the issuance or the ranking of an issued growth permit. An application for a growth permit is not transferable.

8. Periodic review of Ordinance

Prior to December 31, 2005 the Town Selectmen shall conduct a review of this Ordinance to evaluate whether the rate of residential growth remains constant with the Town's ability to absorb the growth, and shall determine whether the number of growth permits available under this Ordinance should be adjusted by amendment to this Ordinance: The Town Selectman may, at their discretion, seek assistance or advice from the Planning Board, and/or hold public hearings, in connection with such review. If the Town Selectmen do not conduct such review, this Ordinance shall expire December 31, 2005. If the Town Selectmen conduct such review, this Ordinance shall continue in effect, reviewing this Ordinance prior to December 31st of each year or this Ordinance shall expire on December 31st of that year. This Ordinance may only be amended at the annual Town meeting.

9. Violation, Penalties and Enforcement

Any person who constructs, creates or places a dwelling unit within the Town of Baldwin without a growth permit required by this Ordinance or who owns or occupies a dwelling unit constructed, created or placed within the Town of Baldwin without a growth permit required by this Ordinance commits a civil violation and is subject to the fines, penalties and remedies provided in 30-A M.R.S.A. section 4452. Each day a violation continues to exist after notice of the violation constitutes a separate violation. This Ordinance shall be enforced by the Town of Baldwin Code Enforcement Officer in the manner provided for enforcement of violations of the Land Use Ordinance of the Town of Baldwin as is set forth in Article 4.4 of such Land Use Ordinance.

10. Appeals

An applicant for a growth permit who is adversely affected by a decision or action of the Code Enforcement Officer in the administration of this Ordinance may appeal to the Baldwin Board of Appeals under provisions governing administrative appeals under Articles 7.2 and 7.3 of the Land Use Ordinance of the Town of Baldwin.

**Land Use Ordinance of the Town of Baldwin, Maine
(as of 3.10.18)**

Land Use Ordinance of the Town of Baldwin, Maine

ARTICLE 1. Preamble

1.1 Short Title

This Ordinance shall be known and may be cited as the “Land Use Ordinance of the Town of Baldwin, Maine,” and will be referred to herein as the Ordinance.

1.2 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of 30-A M.R.S.A. §3001 (Home Rule), and the State’s Comprehensive Planning and Land Use Regulation Act, 30-A M.R.S.A. §4312 *et seq.*, all as amended.

1.3 Purposes

This Ordinance is designed to promote the health, safety and general welfare of the residents of the Town of Baldwin; to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to prevent housing development in unsuitable areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources and visual character; and to provide for adequate public services. This Ordinance does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another and it does not excuse any person of the necessity of complying with other applicable laws and regulations.

1.4 Jurisdiction

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Baldwin, exclusive of the land and water area subject to the Town’s Shore land Zoning Ordinance.

ARTICLE 2. Definitions

2.1 Meaning of Words

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural and vice versa. The word “lot” shall include “parcel” and “plot.” The word “shall” is used to indicate the mandatory and the word “may” is used to indicate the permissive. The words “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied.”

2.2 Definitions

ABUTTING PROPERTY: Any lot which is physically contiguous with the lot in question even if only at a point and any lot which is located directly across a public street or way from the lot in question.

ACCESSORY USE OR STRUCTURE: A use or structure which is customarily and in fact both incidental and subordinate to the principal use or structure. The term “incidental” in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

AGRICULTURE (FARMING): The cultivation of the soil, production of crops including crops in commercial greenhouses, and/or raising of livestock, including animal husbandry.

ANIMAL HUSBANDRY: The growing and/or raising of livestock and/or poultry for commercial purposes.

AUTOMOBILE GRAVEYARD: A yard, field or other area used to store three or more unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A M.R.S.A. §101, §§42, or parts of such vehicles. It does not include any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. Automobile graveyard includes an area used for automobile dismantling, salvage and recycling operations.

AUTOMOBILE RECYCLING BUSINESS: The business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80 per cent of the business premises specified in the application is used for automobile recycling operations.

AUTOMOBILE REPAIR GARAGE: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair, over-all painting and under-coating of automobiles.

AUTOMOBILE SALES: The sales of more than five vehicles in a 12-month period or the display of three or more vehicles for sale within a 20-day period on premises controlled by the seller. Vehicles owned and registered by the property owner for at least six months are not included for purposes of this definition.

AUTOMOBILE SERVICE STATION: A place where gasoline, or any other automobile engine fuel, kerosene, or motor oil and lubricants or grease are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame or fender straightening and repair.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattel.

BUSINESS: Any use or activity conducted for financial gain or any use or activity in which fees are charged other than municipal, religious or community based nonprofit organizations and renting of dwelling units. For the purposes of this Ordinance if a business activity is not specifically defined or mentioned in the land use table, it shall be assigned to one of the following business categories:

CONTRACTOR BUSINESS: A business engaged in the provision of a service off the premises, but which has an office and equipment/materials stored on the premises.

FINANCIAL SERVICE: A service including banking, other credit agencies, security and commodity brokers and service, insurance, real estate and investment offices.

HOME OCCUPATION: The use of a dwelling unit or structures accessory to a dwelling unit for gainful employment.

MANUFACTURING: The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

OFFICE BUSINESS: A business which provides administrative, professional or clerical services, such as but not limited to attorney, insurance agent, accountant, surveyor, planner engineer, but not including medical and doctors' offices.

PERSONAL SERVICE BUSINESS: A business engaged in the provision of personal services such as but not limited doctor, hairdresser, barber, beautician, masseuse, tanning salon.

RETAIL BUSINESS: A business engaged in the sale, rental or lease of goods to the ultimate consumer for his or her use or consumption and not for resale.

SERVICE BUSINESS: A business engaged in the provision of an actual service on the premises, such as but not limited to cleaning or repairing personal property, training or teaching people,

veterinary practice, pet grooming, the redemption of beverage containers or a funeral home.

WHOLESALE BUSINESS: A business engaged in the sale of merchandise to retailers and not to the ultimate consumer.

CAMPGROUND: Land upon which one or more tents are erected or trailers are parked for temporary (not more than six months in a year) use for a fee on sites arranged specifically for that purpose. The word “campground” shall include the words “camping ground,” and “tenting grounds.”

CHURCH: As used in this Ordinance, refers to a place of worship regardless of denomination. A building or structure, or group of buildings or structures, the designed primarily intended and used for the conduct of religious services, excluding school.

CLUSTERED RESIDENTIAL DEVELOPMENT: A form of housing development which allows the developer flexibility in subdivision and housing design, including use of single family detached or attached, two-family, and/or multifamily dwellings, if allowed in a given district, in return for setting aside a portion of the tract of land as permanent open space, in accordance with the provisions of Article 10, Section 10.5 of this Ordinance. All clustered residential developments shall be subject to subdivision regulations and approvals.

CODE ENFORCEMENT OFFICER: The official responsible for enforcement of this Ordinance and for other duties set forth by State statute and other ordinances. The Code Enforcement Officer shall also have all the duties of a Building Inspector.

COMMERICAL: Direct or indirect financial benefit for the use of a Shooting Range, including for profit and nonprofit entities and sporting clubs.

COMMERCIAL OUTDOOR RECREATION: Outdoor recreation activities that are operated by an entity other than a unit of government and which are available for use for a fee, including but not limited to standard golf courses, ice skating rinks, tennis courts and cross-country ski trails, but excluding games and activities common to amusement parks. Private outdoor recreation facilities serving exclusively a residential use shall be considered accessory to the residential use.

COMMUNICATIONS TOWER: A structure for the support of antennas and reflectors, and associated necessary accessory structures, used in broadcast, point-to-point and relay communications, including but not limited to television, radio, cellular, utility, PCS, MMDS and community repeaters.

COMMUNITY BUILDING: A private building used by a fraternal, philanthropic or other civic organization and which may be made available from time to time for community functions.

CORNER LOT: Lot located at the intersection of two streets.

DAY CARE CENTER: A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for three or more children under 13 years of age. “Day care center” does not include any facility operated as a nursery school, a home day care provider or summer camp established solely for recreational and educational purposes or formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A.

dBA: The sound pressure level, in decibels, as measured on a precision sound level meter on the A- weighted scale.

DWELLING: A building used as the living quarters for one or more families, containing a minimum of 600 square feet of floor area per dwelling unit exclusive of garages and similar unheated storage spaces, and equipped with a heating system and plumbing. The term includes manufactured housing as defined by 30-A M.R.S.A. §4358, as amended.

DWELLING, ATTACHED: A single family dwelling which has two or more fire separation walls, or one fire separation wall in the case of a dwelling unit at the end of a group of attached dwellings; which has no dwelling unit above or below it; and which has no common hallway with any other dwelling unit.

DWELLING, TWO-FAMILY: A building used for residential occupancy by not more than two families

living independently of each other.

DWELLING, MULTI-FAMILY: One or more buildings used for residential occupancy by more than two families, each living independently of the other.

DWELLING UNIT: A room or group of rooms within a dwelling designed and equipped as living quarters for a person or for a family, including provisions for living, sleeping, cooking, bathing, and eating. The term includes manufactured housing but not recreational vehicles or motel units.

EATING AND DRINKING PLACE: A business establishment the principal business of which is the preparation of food or beverages for consumption on the premises and which provides seating for its customers.

ENLARGEMENT OR EXPANSION OF A STRUCTURE: An increase in the floor area, building footprint, increase in the height of the structure beyond its present highest point, or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches and greenhouses. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) are not considered to be enlargements or expansions.

EPA LEAD MANAGEMENT GUIDELINES: Shall mean, at any given time, the latest edition of the United States Environmental Protection Agency's Best Management Practices for Lead at Outdoor Shooting Ranges.

ESSENTIAL SERVICES: Facilities for the transmission or distribution of water, gas, electricity, or for the collection, treatment or disposal of wastes, including power lines, telephone lines, gas lines, water and sewerage systems, and road networks. The term does not include buildings which are necessary for the furnishing of such services.

EXPANSION OF USE: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use. Expansion of use also means an intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. A nonconforming outdoor use of land shall not be extended or expanded in area or function.

FAMILY: One or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding home, rooming house, or hotel. Such housekeeping unit shall not include persons not related by blood or marriage.

FIREARM(S): A weapon, including but not limited to pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

FORESTRY: The operation of timber tracks, tree farms, forest nurseries, the harvesting of forest products, or the performance of forest services.

FOREST MANAGEMENT ACTIVITIES: Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, pruning and other stand improvement, regeneration of forest stands, and other similar associated activities exclusive of timber harvesting and the construction, creation or maintenance of roads.

FRONTAGE: The linear distance between the sidelines of a lot, measured along the lot line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of this Ordinance, the following ways shall constitute legal access to a lot along which frontage may be measured:

1. a way accepted by or established as belonging to the Town of Baldwin, Cumberland County, or the State of Maine, provided access is not specifically prohibited;
2. a way, whether dedicated to public ownership or not, as shown on an approved subdivision plan;
3. a way which has not been accepted by a governmental unit but which was established prior to the effective date of the Maine Subdivision Act (September 22, 1971) and is documented in a plan or deed recorded in the registry of deeds;

4. a private way created by a deeded right-of-way which is a minimum of 60 feet in width, which serves no more than two lots, neither of which shall be part of a subdivision which meets all of the requirements for the district in which it is located, and which meets the following standards for improvement:

The roadway shall be constructed with a minimum of 12 inches of road gravel, shall have a minimum width of the surface of the travel way of 20 feet, and shall have adequate surface and subsurface drainage meeting the requirements of the municipal officers or their designated representative. In the absence of a written agreement between abutters the roadway shall be set back 10 feet from the neighbor's property.

A private way shall not serve as access to any lot in a subdivision nor shall any private way created after the date of adoption of this Ordinance be offered to the Town for acceptance as a town way, until it is brought up to the standards of Article 12 – Design Standards, 12.2.B. Street Design and Construction Standards of the Subdivision Ordinance of the Town of Baldwin, Maine, as amended, at the owners' cost.

In the case of a lot situated on a curve of a way or on a corner of two ways, the measurement of frontage may include the entire length of the property line along such way or ways.

GAMING OR GAMBLING ESTABLISHMENT: Any premises wherein or whereon gaming is done; especially any banking or percentage game played with cards, dice or any mechanical device or machine for money, property or any representative of value, and located within a casino; and as defined under 17-A M.R.S.A. §952. However, lottery tickets and other items used in the playing phases of state sponsored lottery schemes are not gambling devices within this definition.

HOME DAY CARE PROVIDER: A person who receives some type of payment to provide child care in his or her own home on a regular basis, for three to 12 children under 13 years old, who are not the provider's own children.

HOME OCCUPATION: An occupation or profession which is carried on in no more than 25 percent of the ground area of a detached, single-family dwelling unit by the full-time permanent occupant of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof (by way of illustration and not of limitation, the term home occupation shall include the preparation of foods such as breads, cookies or preserves; the making of rugs, birdhouses, fishing flies, and quilts.). The term "home occupation" shall include both professional and personal services, with no more than three employees. A retail sales outlet does not qualify as a home business unless the item sold is the product of the owner's labor (e.g., manufactured, produced, created, grown). Home occupation shall not include automobile sales and automobile repair. See business definition.

HOTEL OR MOTEL: A commercial building or group of buildings with sleeping rooms built to accommodate for a fee travelers and other transient guests. A hotel or motel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

JUNKYARD: A yard, field, or other area used to store the following items; excluding items which are being stored out of doors for household use within a reasonable period of time:

1. Discarded, worn-out, or junked plumbing, heating supplies, household appliances, and furniture.
2. Discarded, scrap, and junked lumber; or
3. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.
4. Garbage dumps, waste dumps and sanitary fills

KENNEL: Six or more dogs or wolf hybrids or other pets kept in a single location for any purpose. The sale or exchange of more than one litter within a 12-month period shall be considered a kennel.

1. Types of Kennels.

a. Boarding kennel. Any place, building, tract of land or abode in or on which three or more privately owned dogs or other pets, or both, are kept at any one time for their owners in return for a fee. A person maintaining a boarding kennel must obtain a license from the Department of Agriculture, Food and Rural Resources, Division of Animal Health and Industry and is subject to rules adopted by the department.

b. Breeding kennel. A facility operated for the purpose of breeding or buying, selling or in any way exchanging dogs or cats for value that exchanges more than 16 dogs or 16 cats in a 12-month period. A person maintaining a breeding kennel must obtain a license from the Department of Agriculture, Food and Rural Resources, Division of Animal Health and Industry and is subject to rules adopted by the department.

2. Requirements.

a. Kennel license. A person having a pack or collection of dogs shall obtain a kennel license from the town where the dogs are kept and that person is subject to rules adopted by the Department of Agriculture, Food and Rural Resources, Division of Animal Health and Industry. The sex, registered number and description are not required of dogs covered by a kennel license. The license expires December 31st annually. The kennel license permits the licensee or authorized agent to transport under control and supervision the kennel dogs in or outside the state. A kennel owner shall not keep more than 10 dogs per license.

b. Kennel inspection. An animal control officer must inspect annually a kennel prior to the municipality issuing a kennel license. The kennel must meet state standards.

LOT: A contiguous parcel of land in single or joint ownership described on a deed, plot plan, or similar legal document and having frontage.

LIGHT INDUSTRIAL USES: Industrial activity involving the manufacturing, packaging, assembly, or distribution of products from previously prepared material, including, by way of example only, the following: bakeries, bottling, printing and publishing, pharmaceuticals, machine shops, precision instruments, watchmakers, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and the packaging of foods. Light industrial uses do not include the processing of raw materials or salvaging operations.

MANUFACTURED HOUSING UNIT: A mobile home manufactured after June 15, 1976, or a single-wide modular home, each of which shall comply with the residential space and bulk standards of the district in which it is located and the following additional requirements:

1. the minimum horizontal dimension as installed on the site shall be 12 feet;
2. the roof shall have a minimum pitch of three inches vertical rise for each 12 inches of horizontal run, and be covered by approved wood or asphalt composition shingles;
3. the exterior wall surfaces shall be covered with materials meeting the requirements of the BOCA/Basic National Building Code as adopted by Town meeting March 2000.

MOBILE HOMES: Factory-fabricated structures, other than manufactured housing units as defined in this Ordinance, built on permanent chassis and designed to be used as dwelling units with permanent foundations when connected to the required utilities.

MOBILE HOME PARK: A plot of land laid out to accommodate on the same parcel three or more mobile home sites, subject to the space and bulk standards of this Ordinance and to the design standards and review process of the Subdivision Ordinance and subject to all other applicable State and local codes and ordinances.

NEIGHBORHOOD STORE: A retail store that occupies less than 2,000 square feet of total floor space and within which no alcoholic beverages are consumed.

NET LOT AREA: As applied to clustered residential development, the total available acreage less the area required for streets, access and portions of the site which are not suitable for development because of sustained slopes in excess of 20 percent, water bodies, 100-year floodplains, and wetland areas. "Access"

as used herein includes all land within street right-of-way boundaries, but does not include land used for individual driveways or for parking areas.

NONCONFORMING LOT: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the lot area, lot area per dwelling unit, lot coverage, or frontage requirements of the district in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NONCONFORMING STRUCTURE: A structure that does not meet the minimum setback standards of the district in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NONCONFORMING USE: A use of premises that is not permitted in the district in which it is located, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NORMAL HIGH WATER MARK: That line on the shores and the banks of nontidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. It is the line where the vegetation changes from predominantly aquatic to predominantly terrestrial. High water setbacks apply to all perennial streams depicted in the most recent USDA Soil Conservation Service Soil Survey for Cumberland County, Maine.

NRA RANGE SOURCE BOOK: Shall mean, at any given time, the latest edition of The Range Source Book, as published by the National Rifle Association.

NURSERY SCHOOL: A house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program which provides for three or more children, provided that:

1. no session conducted for the children is longer than three and one-half hours in length;
2. no more than two sessions are conducted per day;
3. each child in attendance at the nursery school attends only one session per day; and
4. no hot meal is served to the children.

This term does not include any facility operated as a day care center, a summer camp established solely for recreational and educational purposes or a public or private school in the nature of a kindergarten approved by the Commissioner of Educational and Cultural Services in accordance with 20 M.R.S.A. §911.

NURSING OR CONVALESCENT HOME: A facility in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care but who do require, on a 24-hour basis, nursing care and related medical services.

Occupied Dwelling(s): Shall mean any residential Structure or business Structure which is legally occupied by one or more Persons.

Person(s): Any individual, corporation, association, club, firm, or partnership.

PRIMITIVE RECREATION: Recreation uses that do not require buildings or structures, or significant alteration of the terrain, such as hunting, fishing, hiking, primitive camping, snowmobiling, cross-country ski trails, and parks of primarily undeveloped, natural character.

PROFESSIONAL OFFICE: A structure or space which houses the business office of a person or persons who supply a professional service other than a business service, financial service, or personal service, as defined in this Ordinance.

QUASI-PUBLIC FACILITY: A facility for a recognized public purpose, such as an auditorium, library, park, or museum, which is operated by a not-for-profit organization or by a public agency other than the municipality.

RECREATIONAL VEHICLE: A vehicle, or attachment to a vehicle designed to be towed, and designed

for temporary sleeping or living quarters for one or more persons for not more than seven months in a calendar year, and which may include a pick-up camper, travel trailer, tent trailer, and motor home.

SCHOOL, COMMERCIAL: An institution for teaching and learning, which place or institution is established for commercial or profit-making purposes, including, by way of example only, schools for dance, music, riding, gymnastics, photography, driving, or business.

SCHOOL, PUBLIC AND PRIVATE: A place or institution for teaching and learning, which place or institution teaches courses of study sufficient to qualify attendance there as being in compliance with state compulsory education requirements. A public school, as differentiated from a private school is operated by a municipal corporation or school administrative district or, for the purposes of this Ordinance, by a recognized religious organization.

SETBACK, BACK: The distance between the rear line of the lot, extending the full width of the lot, and the nearest part of any principal or accessory structure. Back or rear setback and back or rear yard are synonymous.

SETBACK, FRONT: The distance between the existing roadway center line extending the width of the frontage and the nearest part of any principal or accessory structure; provided, however, that a sign may be placed in the front setback area as long as it is outside of the road right-of-way.

SETBACK, SIDE: The distance between the side property line and the nearest part of any principal or accessory structure. Any lot line not a back lot line or a front lot line shall be deemed a side lot line. Side setback and side yard are synonymous.

SHOOTING RANGE(S): An area designed and improved to encompass shooting stations or firing lines, Target areas, berms and baffles, and other related components.

SHOOTING RANGE FACILITY(IES): A public or private facility, safety fans or Shotfall Zones, Structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of Firearms.

SHORELAND ZONE: The land area within 250 feet, horizontal distance, of the normal high water mark of designated ponds, rivers, and wetlands, and within 75 feet, horizontal distance, of designated streams as written in the Town of Baldwin Shoreland Zoning Ordinance.

SHORELINE: The straight line between the points of intersection of the side lot lines with the normal high water line.

SHOTFALL ZONE(S): An area within which the shot or pellets contained in a shotgun shell typically fall.

STRUCTURE: Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground excluding driveways, walkways, patios, and other paved surfaces, and fences.

TARGET(S): Any object or area which is used as the intended recipient of the projectiles fired from a Firearm.

TIMBER HARVESTING: The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and winter haul roads.

VARIANCE: A grant of permission by the Board of Appeals to exceed the space and bulk standards or performance standards of this Ordinance. Any such grant shall strictly comply with the standards and procedures of Article 7 of this Ordinance. A variance is not authorized for establishment of a use otherwise prohibited.

VEHICLE: Vehicle shall include all kinds of conveyances on all kinds of public ways for persons and for property, including special equipment, except those propelled or drawn by human power or used exclusively on tracks.

VEHICLE SALES: The sales of more than five vehicles in a 12-month period or the display of three or

more vehicles for sale within a 20-day period on premises controlled by the seller. Vehicles owned and registered by the property owner for at least six months are not included for purposes of this definition.

WETLAND, INLAND: Land which is associated with or linked to the drainage systems of inland streams, ponds, and lakes, and the soils of which are saturated, with the water table at or above surface level, for most of the year.

YARD (or GARAGE) SALE: A sale of used household goods, curios, and the like. Yard (or garage) sales, as distinguished from flea markets, shall be considered to be accessory uses under this Ordinance.

ARTICLE 3. Establishment of Districts

3.1 Land Use Map

A map entitled “Town of Baldwin Land Use Map” is hereby adopted as part of this Ordinance and shall be referred to as the Official Land Use Map. The Official Land Use Map shall be identified by the signature of the Chairman of the Board of Selectmen and attested by the signature of the Town Clerk. The Official Land Use Map shall be located in the office of the Town Clerk, and it shall be the final authority as to the current status of the districting of the land and water areas, buildings, and other structures in the Town.

3.2 Land Use Districts

The Town is divided into the following districts, as shown by the district boundary lines on the Official Land Use Map:

Natural Resource Protection (RP) District

Highland (H) District

Rural (R) District

Village Commercial (VC) District

3.3 District Boundaries

A. Uncertainty of boundaries

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Land Use Map, the following rules shall apply.

1. Boundaries indicated as approximately following the center lines of streets, highways, or rights-of-way shall be construed to follow such centerline;
2. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;
4. Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline;
5. Boundaries indicated as approximately following the center line of streams or other water bodies shall be construed to follow such center lines;
6. Boundaries indicated as being parallel to or extensions of features indicated in paragraphs 1. through 3. above shall be so construed. Distances not specifically indicated on the Official Land Use Map shall be determined by the scale of the map. Any conflict between the Official Land Use Map and a description by metes and bounds in a deed shall be resolved in favor of the description by metes and bounds;

7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Land Use Map, or in circumstances where the items covered by paragraphs 1. through 6. above are not clear, the Board of Appeals shall interpret the district boundaries.
- B. Division of lots by district boundaries
- Where a district boundary line divides a lot or parcel of land in the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended into the more restricted portion of the lot by not more than 50 feet, provided that the more restricted portion is not a Natural Resource Protection District, and provided, further, that minimum side yard and back yard requirements for a nonresidential use abutting a residential use shall be observed.

ARTICLE 4. Administration and Enforcement

4.1 Administrative Official

Unless otherwise specifically stated, the Code Enforcement Officer shall administer and enforce this Ordinance.

4.2 Building Permits Required

- A. No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Code Enforcement Officer. No change of use or resumption of a nonconforming use shall occur without a permit issued by the Code Enforcement Officer. No other activity which may be referenced elsewhere in this Ordinance as requiring a permit shall commence without a permit issued by the Code Enforcement Officer. No permit shall be issued except in conformity with the provisions of this Ordinance and the provisions of other applicable state and local codes, and after the necessary approvals have been secured from local officials.

Storage buildings and structures less than or equal to 144 square feet and less than or equal to 15 feet in height may be placed without a building permit provided that they are in compliance with all setbacks and only one such permit-free structure is allowed per lot. No buildings or structures permitted under this ordinance may be used for a dwelling. A permit will be required for all structures, no matter what size, after the first permit-free structure is built.

- B. Notwithstanding the requirements of paragraph A, no permit shall be required for repairs or improvements not involving structural changes when the reasonable cost is less than \$25,000.00.

- C. Building Permit Applications

Applications for permits shall be made on forms provided by the Code Enforcement Officer. Each application for a building permit shall be accompanied by a site plan drawn to scale, showing the measurements of the lot and of all buildings, setbacks, disposal fields, the location of abutting streets or ways, existing and proposed parking spaces. The application shall include a clear statement as to the intended use of the property. The Code Enforcement Officer may request additional information, which, in his/her opinion, is necessary for a complete understanding of the application. Permit applications shall be accompanied by such fees as may be set by the Town.

- D. Action on Permit Applications

The Code Enforcement Officer shall issue a written notice of his/her decision on an application for a permit within five working days from the date a complete application is filed. If the activity is in conformance with this Ordinance and other applicable codes and regulations, the Code Enforcement Officer shall issue a written permit. If the Code Enforcement Officer denies a permit he/she shall issue the denial in writing, with the reason(s) therefore.

E. Building Permit Time Limit

The work authorized by a permit must be commenced within six months of the date of issuance and must be completed, including finish grading and proper drainage, within 24 months. A permit may be renewed by the Code Enforcement Officer for an additional 24 months if reasonable need can be shown.

Following issuance of a permit, if no substantial start is made in construction, or in use of the property for which such permit has been issued, within 18 months of the date of the permit, the permit shall lapse and become void.

F. Building Permit Fee

The building permit fee shall be based on the Town of Baldwin Building Ordinance as amended.

4.3 Conditional Use Permits and Site Plan Review

A. Authorization

1. The Planning Board is hereby authorized to hear and decide upon applications for conditional use permits, in accordance with federal and state law, the provisions of this Ordinance, and the provisions of other applicable town ordinances. The Board shall approve, approve with modifications or conditions, or disapprove an application for a conditional use permit. No conditional use or site plan review approval shall be authorized unless specific provisions for such conditional use is made in this Ordinance.
2. No changes shall be made in any approved Conditional Use without approval of the change by the Planning Board.

B. Independent Consultants

The Planning Board may employ independent consulting services to review the application, after prior notification to and at the expense of the applicant, to assure compliance with all requirements of this Ordinance. The estimated costs of such services shall be deposited with the Town prior to their undertaking. Any balance in the account remaining after a final decision on the application shall be returned to the applicant.

C. Application Procedure

A person informed by the Code Enforcement Officer that he/she requires a conditional use permit or site plan review shall file an application for the permit with the Planning Board on forms provided for the purpose. Every application shall be accompanied by a fee which shall be established by the Board of Selectmen. This application fee shall be paid to the Town of Baldwin. No permit shall be issued until the fee is paid. All plans for Conditional Uses and Site Plan Review presented for approval shall be presented as outlined in Article 8 Conditional Uses and Article 11 Site Plan Review.

D. Public Hearing

Following the filing of an application, the Planning Board shall determine whether the application is complete. If the application is not complete, the Board shall notify the applicant in writing of the information needed to make the application complete. The Planning Board shall hold a public hearing on the application within 35 days of determining that the application is complete. The Board shall notify the Code Enforcement Officer and Municipal Officers, and shall publish notice of the time, place and subject matter of hearing at least 10 days in advance in a newspaper of general circulation in the area.

1. The Board shall notify by regular U.S. mail, first class, postage prepaid, the applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing.
2. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
3. The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Planning Board all plans, photographs or other material deemed appropriate for an understanding of the application.

4. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

E. Decision

Within 35 days of the public hearing the Planning Board shall reach a decision on the Conditional Use application and shall inform, in writing, the applicant, the Code Enforcement Officer and Municipal Officers of its decision and shall prepare a detailed finding of facts and conclusions. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Board, or deny a Building Permit. The decision of the Planning Board may be appealed to the Board of Appeals as an administrative appeal pursuant to Article 7, Section 7.3.

F. Performance Guarantees

1. Types of Guarantees. At the time of approval of the application for conditional use or site plan approval, the Planning Board may require the applicant to provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs:

- a. either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- b. a performance bond payable to the municipality issued by a surety company, approved by the municipal officers;
- c. an irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the municipality may draw if construction is inadequate, approved by the municipal officers, or town manager; or

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the road commissioner, municipal officers, and/or municipal attorney.

2. Contents of Guarantee. The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.
3. Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.
4. Performance Bond. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the project for which approval is sought.
5. Letter of Credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the project and may not be used for any other project or loan.
- 6 Release of Guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other

qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the project for which the release is requested.

7. Default. If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the municipal officers, the Planning Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.
 8. Improvements Guaranteed. Performance guarantees, when required, shall be tendered for all improvements required under this Ordinance, including but not limited to, sidewalks, drainage and storm water management facilities, parking areas, lighting, signs, landscaping and buffer areas, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures. Upon satisfactory completion of the prescribed improvements, the applicant shall file a defect guarantee with the Town. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction. It shall also ensure the proper installation of any required tree plantings or landscaping which were not installed prior to the filing of the defect guarantee. The defect guarantee shall be filed prior to the release of the performance guarantee.
- G. Conditional Use Permit and Site Plan Review Permit Time Limit
- Following issuance of a permit, if no substantial start is made in construction, or in use of the property for which such permit has been issued, within 24 months of the date of the permit, the permit shall lapse and become void.
- If the use lapses for a period of 24 months then the Conditional Use Permit shall cease to be in force.

4.4 Violations

If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he/she shall notify by certified mail the property owner and such other person as may be responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. The Municipal Attorney, on notification by the Chairman of the Board of the Selectmen shall institute, in the name of the Town, any and all actions, legal and equitable, that may be appropriate or necessary for the enforcement of the provisions of this Ordinance. Any person, firm or corporation owning or having control of any building or premises or part thereof who violates any provision of this Ordinance, or who fails to take the required corrective measures, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100 per day for each day of the violation. Each day such violation exists shall constitute a separate offense.

ARTICLE 5. Nonconformance

5.1 Purpose

The purpose of this article is to regulate nonconforming lots, uses, and structures, as defined in this Ordinance, such that they can be reasonably developed, maintained, or repaired, or changed to other less nonconforming uses or to conforming uses.

5.2 Nonconforming Lots

A. Vacant Lots

A nonconforming lot may be built upon provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except

lot size and road frontage can be met. If two or more vacant, contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if these lots do not individually meet the minimum lot size, minimum lot area per dwelling unit, or minimum road frontage standards, the lots shall be combined to the extent necessary to meet these standards, except where the contiguous lots front onto different streets.

B. Lots with Structures

1. A structure built on a lot prior to enactment of this Ordinance, which lot does not conform to lot size, lot area per dwelling unit, or road frontage requirements, may be repaired, maintained, or improved, and may be enlarged in conformity with the applicable space and performance standards other than minimum lot size or minimum road frontage. Structures shall not be enlarged in a manner that violates or worsens the standard relative to minimum lot area per dwelling unit.
2. If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the minimum lot or minimum road frontage requirements, and if a principal use exists on each lot, or if the lots were legally created and recorded after the effective date of and pursuant to the Maine Subdivision Act, the nonconforming lots may be conveyed separately or together, providing all other State law and local ordinance requirements are met.

C. Uses on Nonconforming Lots

1. Only permitted uses shall be allowed on nonconforming lots.
2. All uses on nonconforming lots, other than single family dwellings, shall be reviewed by the Planning Board as a conditional use.

5.3 Nonconforming Uses

A. Continuance

Except as provided in paragraph 3 below, the use of lands, building, or structure, lawful at the time of adoption or subsequent amendment of this Ordinance, may continue, although such use does not conform to the provisions of this Ordinance.

B. Resumption

Whenever a nonconforming use of land and/or a structure is superseded by a permitted use, such structure and/or land shall thereafter conform to the provisions of this Ordinance and the nonconforming use shall not be resumed.

C. Discontinuance

A nonconforming use which is discontinued for a period of two years shall not be resumed. The uses of the land, building, or structure shall thereafter conform to the provisions of this Ordinance.

D. Expansion of Nonconforming Use

A nonconforming use in lawful existence as of the effective date of this Ordinance, including a nonconforming outdoor use of land, shall not be extended or expanded except upon the following conditions:

1. the expansion or extension shall occur only on the lot of record on which the nonconforming use existed as of the effective date of this Ordinance;
2. the person proposing such expansion or extension shall document to the Code Enforcement Officer his/her right, title, or interest in the land as of the effective date of this Ordinance; and
3. no expansion or extension of a nonconforming use shall be permitted after a period of seven years after the effective date of this Ordinance.

E. Enlargement of Nonconforming Use of Land

A nonconforming use of land shall not be enlarged to cover more land that was utilized by that use when it became nonconforming.

F. Change of Use

An existing nonconforming use may be changed to another nonconforming use with approval of the Board of Appeals provided that the proposed use is no more nonconforming or have no greater adverse impact.

5.4 Nonconforming Structures

A. Maintenance and Enlargement

A structure in existence as of the effective date of this Ordinance that does not meet the minimum setback requirements of the district in which it is located, including shoreland area standards may be repaired, maintained, and improved. It may be enlarged and/or accessory structures may be added to the site without a variance, provided that the enlargement or accessory structure itself meets the prescribed setback requirements; or, if located within the same yard as the nonconforming part of the existing structure, is no closer to the front, side, or rear lot line than the nonconforming structure and contains no more than 25 percent of the ground floor area of the nonconforming structure.

B. Reconstruction

Any nonconforming building or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent may be restored or reconstructed and used as before within 12 months of the date of said damage or destruction; provided, however, that such reconstruction and use shall not be more nonconforming than the prior nonconforming building, structure, or use.

C. Change of Use of a Nonconforming Structure

The use of a nonconforming structure may not be changed to another use unless the Board of Appeals determines that the proposed use is no more nonconforming or have no greater adverse impact.

5.5 Transfer of Ownership

Ownership of nonconforming lots, structures, or uses as defined in this Ordinance may be transferred without loss of their lawful but nonconforming status.

5.6 Changes in Nonconforming Lots, Structures, and Uses

Upon approval of the Board of Appeals, a nonconforming aspect of a lot, structure, or use may be changed upon a finding by the Board of Appeals that such a change will bring the lot, structure, or use into closer conformance with the provisions of this Ordinance or will make the nonconforming aspect no worse. A lot or structure will be deemed to have been brought into closer conformance with the provisions of this Ordinance, or have been made no worse, if its dimensions are unchanged or more nearly meet the prescribed standards. A use will be deemed to have been brought into closer conformance with the provisions of this Ordinance, or have been made no worse, if it is less or no more intense than the previous nonconforming use, as measured by volume and type of traffic expected to be generated, size of building or structure housing the use, number of potential customers, number of bedrooms, and similar measures of intensity of use.

ARTICLE 6. District Regulations

6.1 Natural Resource Protection District (RP)

A. Purpose

The purpose of the natural resource protection district is to protect fragile ecological systems, which, if intensively developed or substantially altered, would damage water quality, wildlife and aquatic habitat and biotic systems, and ecological relationships. To accomplish this purpose, uses are permitted which avoid disruption of the natural environment, while allowing productive use to be made of the land.

B. Permitted Uses in the Natural Resource Protection District

The following uses are permitted in the Natural Resource Protection District:

Emergency and fire protection activities

Forest management

Harvesting of wild crops

Primitive recreation

Wildlife management

Agricultural and Timber Harvesting

C. Conditional Uses in the Natural Resource Protection District

The following uses may be permitted only upon approval as conditional uses in accordance with the appropriate provisions of this Ordinance:

Agriculture

Essential services

Public nonresidential facility related to education in or research of natural sciences

Structures accessory or essential to permitted uses

D. Prohibited Uses in the Natural Resource Protection District

Uses not allowed as permitted or conditional uses are prohibited within this district.

E. Standards

1. The general performance standards of Article 9 shall be observed.
2. All uses in the shoreland zone shall comply with the standards in the most current revision of the Town of Baldwin Shoreland Zoning Ordinance.

6.2 Highland District (H)

A. Purpose

The purpose of the highland district is to recognize the inherent limitations for development posed by the higher elevations and steep slopes in this district, while allowing very low intensity development compatible with physical capability of the land.

B. Permitted Uses in the Highland District

The following uses are permitted in the Highland District:

Accessory uses or structures

- Agriculture
- Emergency and fire protection activities
- Essential services
- Forest management
- Harvesting of wild crops
- Home occupations Mobile homes
- Primitive recreation
- Single family detached dwellings
- Structures accessory or essential to permitted uses
- Timber harvesting
- Two-family dwellings
- Wildlife management

C. Conditional Uses in the Highland District

The following uses may be permitted only upon approval as conditional uses in accordance with the appropriate provisions of this Ordinance:

- Campgrounds
- Clustered residential development
- Commercial outdoor recreation
- Communications towers; colocation required unless the applicant can prove that it is not feasible to do so
- Mineral extraction
- Public nonresidential facility related to education in or research of natural sciences
- Temporary dwelling in accordance with Article 10, Section 10.9 Temporary Dwellings

D. Prohibited Uses in the Highland District

Uses not allowed as permitted uses or conditional uses are prohibited within this district. The occupancy of recreational vehicles for more than seven months in a calendar year is prohibited.

E. Standards

1. The general performance standards of Article 9 shall be observed.
2. The following standards shall apply:

- Minimum lot area----- 10 acres
- Minimum lot area per dwelling unit ----- 10 acres
- Minimum road frontage ----- 400 feet
- Minimum setbacks
 - Front yard
 - Routes 113, 5, 11, and 107 ----- 100 feet
 - all other approved ways ----- 75 feet

Side yard ----- 50 feet

Back yard ----- 50 feet

From normal high water mark ----- 75 feet

3. All uses in the shoreland zone shall comply with the standards in the most current revision of the Town of Baldwin Shoreland Zoning Ordinance.
4. Any use in this district involving new construction of more than 5,000 square feet of floor area or clearing or grading or other earth moving activity affecting more than two acres of land not to be revegetated shall first be subject to Site Plan Review under Article 11 of this Ordinance provided, however, that single family detached or attached homes, forestry activity including timber harvesting, and agriculture shall not be subject to this requirement.

6.3 Rural District (R)

A. Purpose

The purpose of the rural district is to conserve the qualities of the open rural open space, including agricultural and forestry uses while encouraging low intensity development compatible with the physical capability of the land.

B. Permitted Uses in the Rural District

The following uses are permitted in the Rural District:

Accessory uses or structures
Agriculture
Emergency and fire protection activities
Essential services
Forest management
Harvesting of wild crops
Home occupations
Mobile homes
Primitive recreation
Single family detached dwellings
Structures accessory or essential to permitted uses
Timber harvesting
Two-family dwellings
Wildlife management

C. Conditional Uses in the Rural District

The following uses may be permitted only upon approval as conditional uses in accordance with the appropriate provisions of this Ordinance:

Adult business
Automobile graveyard, automobile recycling business and junkyard
Automobile repair garage
Automobile sales consisting of no more than eight vehicles

Business

Contractor business Financial service Manufacturing

Office business

Personal service business

Retail business; maximum commercial floor area shall not exceed 40,000 square feet total

Service business

Wholesale business

Campgrounds

Churches

Clustered residential development

Commercial outdoor recreation Commercial

wood processing and sales Community

building

Communications towers; colocation required unless the applicant can prove that it is not feasible to do so

Day care centers or nursery schools

Eating and drinking places

Funeral homes Hotels and

motels Hospitals and

clinics

Kennels and veterinary clinics

Light industrial uses

Mineral extraction

Multifamily dwellings

Municipal uses not listed elsewhere

Neighborhood stores

Nursing homes

Public nonresidential facility related to education in or research of natural sciences

Quasi-municipal uses

Schools

Temporary dwellings in accordance with Article 10, Section 10.9 Temporary Dwellings

Warehousing, storage, distribution

D. Prohibited uses in the Rural District

1. Uses not allowed as permitted uses or conditional uses are prohibited within this district.
2. The occupancy of recreational vehicles for more than seven months in a calendar year is prohibited.
3. Maximum commercial floor area shall not exceed 40,000 square feet total.

E. Standards

1. The general performance standards of Article 9 shall be observed.
2. The following standards shall apply:
 - Minimum lot area..... 2 acres
 - Minimum lot area per dwelling unit..... 2 acres
 - Minimum road frontage 200 feet
 - Minimum road frontage multifamily 200 feet for first dwelling unit
 - 100 feet for additional units
 - Minimum setbacks
 - Front yard
 - Routes 113, 5, 11, and 107 ----- 100 feet
 - all other approved ways ----- 75 feet
 - Side yard ----- 10 feet
 - Back yard ----- 25 feet
 - From normal high water mark ----- 75 feet
3. All uses in the shoreland zone shall comply with the standards in the most current revision of the Town of Baldwin Shoreland Zoning Ordinance.
4. Any use in this district involving new construction of more than 5,000 square feet of floor area or clearing or grading or other earth moving activity affecting more than two acres of land not to be revegetated shall first be subject to Site Plan Review under Article 11 of this Ordinance provided, however, that single family detached or attached homes, forestry activity including timber harvesting, and agriculture shall not be subject to this requirement.

6.4 Village Commercial District (VC)

A. Purpose

The purpose of the village commercial district is to provide for neighborhood and compatible commercial development in the vicinity of East Baldwin, West Baldwin and North Baldwin.

B. Permitted Uses in the Village Commercial District

The following uses are permitted in the Village Commercial District:

- Accessory uses or structures
- Agriculture
- Emergency and fire protection activities
- Essential services
- Forest management
- Harvesting of wild crops
- Home occupations
- Mobile homes

- Primitive recreation
- Single family detached dwellings
- Structures accessory or essential to permitted uses
- Timber harvesting
- Two-family dwellings
- Wildlife management

C. Conditional Uses in the Village Commercial District

The following uses may be permitted only upon approval as conditional uses in accordance with the appropriate provisions of this Ordinance.

- Adult business
- Automobile graveyard, automobile recycling business and junkyards
- Automobile repair garage
- Automobile sales
- Automobile service stations
- Business
 - Contractor business
 - Financial service
 - Manufacturing
 - Office business
 - Personal service business
 - Retail business; maximum commercial floor area shall not exceed 40,000 square feet total
 - Service business
 - Wholesale business
- Churches
- Clustered residential development
- Commercial wood processing and sales
- Communications towers; limit to 70 feet in Village/Commercial. Colocation is required unless the applicant can prove that it is not feasible to do so.
- Community building
- Day care centers or nursery schools
- Eating and drinking places
- Funeral homes
- Hospitals and clinics
- Hotels and motels
- Kennels and veterinary clinics
- Light industrial uses
- Mineral extraction

- Multifamily dwellings
- Municipal uses not listed elsewhere
- Neighborhood stores
- Nursing homes
- Public nonresidential facility related to education in or research of natural sciences
- Quasi-municipal uses
- Schools
- Temporary dwelling in accordance with Article 10, Section 10.9 Temporary Dwellings
- Warehousing, storage, distribution

D. Prohibited uses in the Village Commercial District

1. Uses not allowed as permitted uses or conditional uses are prohibited within this district.
2. The occupancy of recreational vehicles for more than seven months in a calendar year is prohibited.
3. For retail and warehousing, storage, and distribution the maximum commercial floor area shall not exceed 40,000 square feet total.

E. Standards

1. The general performance standards of Article 9 shall be observed.
2. The following standards shall apply:

- Minimum lot area..... 2 acres
- Minimum lot area per dwelling unit..... 2 acres
- Minimum road frontage 200 feet
- Minimum road frontage multifamily 200 feet for first dwelling unit
- 100 feet for additional units

Minimum setbacks

Front yard

- Routes 113, 5, 11, and 107 ----- 100 feet
- all other approved ways ----- 75 feet

Side yard ----- 10 feet

Back yard ----- 25 feet

From normal high water mark ----- 75 feet

3. All uses in the shoreland zone shall comply with the standards in the most current revision of the Town of Baldwin Shoreland Zoning Ordinance.
4. Any use in this district involving new construction of more than 5,000 square feet of floor area or clearing or grading or other earth moving activity affecting more than two acres of land not to be revegetated shall first be subject to Site Plan Review under Article 11 of this Ordinance provided, however, that single family detached or attached homes, shall not be subject to this requirement.

ARTICLE 7. Board of Appeals

7.1 Appointment and Composition

- A. There shall be a Board of Appeals in accordance with the provisions of 30-A M.R.S.A. §4353, as the same may be amended from time to time.
- B. The Board of Appeals shall consist of five members serving staggered terms of five years, appointed by the Board of Selectmen. The Board of Selectmen may appoint two associate members to serve in the absence of regular members. The Chairman of the Board of Appeals shall designate which associate member shall serve in the stead of the absent member.
- C. The Board of Appeals shall elect annually a chairman and secretary from its membership.

7.2 Procedure

- A. The Board of Appeals shall conduct its meetings in accordance with the provisions of 30-A M.R.S.A. §4353, as the same may be amended from time to time.
- B. The presence of three members of the Board of Appeals shall constitute a quorum. An appeal may be granted or a decision of the Code Enforcement Officer may be overruled only upon an affirmative vote of at least three members of the Board of Appeals.
- C. Before rendering a decision on any appeal, the Board of Appeals shall conduct a public hearing, which shall be advertised at least seven days in advance in a local newspaper and posted in other places usually used for public notices, at the expense of the applicant. The notice shall contain a clear and concise statement of the appeal to be addressed. The Board, or the Town Clerk on behalf of the Board, shall notify by mail the owners of properties lying within 500 feet of the property for which the appeal or application is being made. The owners of properties shall be considered to be those persons against whom taxes are assessed.
- D. The Code Enforcement Officer, unless prevented by illness or other good cause, shall attend all hearings of the Board.
- E. The Board of Appeals shall not continue hearings to a future date except for good cause.
- F. Written notice of the decision of the Board of Appeals shall be set to the appellant and the Code Enforcement Officer within seven days of its decision.
- G. An appeal may be taken from any decision of the Board of Appeals to the Superior Court within 30 days after the decision, as provided by 30-A M.R.S.A. §4353, as the same may be amended from time to time.
- H. The Board of Appeals shall keep records of its proceedings, and such records shall be kept public.

7.3 Powers and Duties

The Board of Appeals shall have the following powers and duties:

A. Administrative Appeals

To affirm, modify, or set aside the action of the Code Enforcement Officer or Planning Board in issuing or denying building or other permits, when it is alleged that there is an error in any order, requirement, decision, or determination in the enforcement of this Ordinance. An administrative appeal shall be taken within 30 days of the date of the decision or action of the Code Enforcement Officer or Planning Board, or within 60 days of the date of application, if no action has been taken by the Code Enforcement Officer or Planning Board. The appeal shall be filed at the office of the Town

Clerk, who shall notify the Chairman of the Board of Appeals, the Code Enforcement Officer, and the Chairman of the Planning Board. When conducting a hearing on an administrative appeal of a Planning Board decision, the Board of Appeals shall limit its consideration to the record that was before the Planning Board and shall not hold a hearing *de novo*.

B. Variances

To approve, approve with conditions, or disapprove appeals from variances from the strict enforcement of the provisions of this Ordinance only as they relate to the space and bulk standards of the district regulations and the performance standards of this Ordinance, according to the terms of Section 7.4 of this Article. A variance shall not be granted to allow a use or an expansion of a use in a district in which the use is prohibited.

C. Changes in Nonconforming Lots, Structures, and Uses

To approve, approve with conditions, or disapprove requests to change a nonconforming aspect of a lot, structure, or use such that it is less nonconforming or no more nonconforming than the existing situation, as authorized in Article 5, Section 5.6 of this Ordinance.

7.4 Variances

A. Application for Variance

Application for a variance shall be made to the Code Enforcement Officer on forms provided for that purpose, accompanied by a fee as may be established by the Town for such applications. The application shall clearly state the location of the property, the relief sought, and the reason(s) for requesting the variance. The application shall include a scale drawing showing the proposed location of the building or structure and its relationship to the lot's property lines and any adjacent road or right-of-way.

B. Standards

Prior to voting to grant a variance, the Board of Appeals shall review the application and find that the following standards have been met:

1. that a literal interpretation of the requirements of this Ordinance will impose an undue hardship on the property owner. The term "undue hardship" shall mean specifically that:
 - a. the land in question cannot yield a reasonable return unless a variance is granted; and
 - b. the need for the variance is due to unique circumstances of the property and not to the general conditions of the neighborhood; and
 - c. the hardship is not the result of action taken by the applicant or a prior owner;
2. that the grant of the variance will not alter the essential character of the locality;
3. any variance granted by the Board of Appeals shall be the minimum variance from the terms of the Ordinance as will relieve the hardship pleaded.

C. Reapplication

If the Board of Appeals shall deny a variance, a second request of a similar nature shall not be brought before the Board within two years from the date of the first request, unless in the opinion of the majority of the Board, substantial new evidence can be brought forward, or unless the Board finds that an error of law or misunderstanding of facts has been made, or unless amendment has been made to this Ordinance which changes the status, circumstances, or conditions of the matter which was appealed.

D. Duration of Variances

Provided all conditions and standards of approval are met, a variance shall be a permanent grant of

permission and shall “run with the land.”

ARTICLE 8. Conditional Uses

8.1 Conditional Use Permit

A building, structure, or parcel of land may be employed for a conditional use if the use is specifically listed in the regulations governing the district in which the use is proposed, and if a conditional use permit is approved by the Planning Board.

An application for a conditional use permit or site plan review approval must be denied for any property where a violation exists until such violation has been corrected or resolved.

8.2 Application for Conditional Use

- A. Application for a conditional use permit shall be made by the property owner to the Code Enforcement Officer on forms provided for the purpose accompanied by such fee as may be established by the Town for such applications. The applicant shall:
 - 1. clearly specify the location of the proposed use, including assessor’s tax map and lot number and location map;
 - 2. describe the exact nature of the proposed use;
 - 3. present a scale drawing of the lot with the locations of any existing or proposed buildings, structures, natural features, driveways, and parking areas;
 - 4. submit such other materials as will enable the Planning Board to determine that the standards for approval of a conditional use have been met. The burden for providing the information upon which the Planning Board bases its findings and decision shall be the applicant’s.
- B. Before rendering a decision on any conditional use, the Planning Board shall conduct a public hearing, which shall be advertised at least seven days in advance in a local newspaper and posted in other places usually used for public notices, at the expense of the applicant. The notice shall contain a clear and concise statement of the proposed conditional use. The Planning Board, or the Town Clerk on behalf of the Planning Board, shall notify by mail the owners of properties lying within 500 feet of the property for which the conditional use proposal is being made. The owners of properties shall be considered to be those persons against whom taxes are assessed.

8.3 Standards for a Conditional Use Permit

A conditional use may be granted by the Planning Board only in the event that the applicant has established to the satisfaction of the Planning Board that:

- A. Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from such a use in the district. In reaching a determination on this standard, the Planning Board shall consider:
 - 1. the size of the proposed use compared with surrounding uses;
 - 2. the intensity of the proposed use, including amount and type of traffic to be generated, hours of operation, expanse of pavement, and similar measures of intensity of use, compared with surrounding uses;
 - 3. the potential generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances;
 - 4. unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, which may tend to aggravate adverse impacts upon surrounding properties;

5. the degree to which landscaping, fencing, and other design elements have been incorporated to mitigate adverse impacts on surrounding properties.
- B. Municipal or other facilities serving the proposed use will not be overburdened or hazards created because of inadequate facilities. In reaching a determination on this standard, the Planning Board shall consider:
1. the ability of traffic to safely move into and out of the site at the proposed location;
 2. the presence of facilities to assure the safety of pedestrians passing by or through the site;
 3. the capacity of the street network to accommodate the proposed use;
 4. the capacity of the storm drainage system to accommodate the proposed use;
 5. the ability of the Town to provide necessary fire protection services to the site and development.
- C. The natural characteristics of the site, including topography, drainage, and relationship to ground and surface waters and flood plains, shall not be such that the proposed use when placed on the site will cause undue harm to the environment or to neighboring properties.

8.4 Conditions of Approval

The Planning Board may attach conditions to its approval of a conditional use permit. These conditions may include, but are not limited to, such requirements as: street improvements; access restrictions; hours of use; buffering and screening; utility improvements; performance guarantees for required off-site improvements; professional inspection and maintenance; sureties; performance bonds; type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance. In evaluating each application the Board may request the assistance of the County Soil and Water Conservation District, a state or federal agency, or consultant which can provide technical assistance.

8.5 Reapplication

If the Planning Board shall deny a conditional use application, a second request of a similar nature shall not be brought before the Planning Board within two years from the date of the first request, unless in the opinion of the majority of the Planning Board, substantial new evidence can be brought forward, or unless the Planning Board finds that an error of law or misunderstanding of facts has been made, or unless amendment has been made to this Ordinance which changes the status, circumstances, or conditions of the matter which was brought before the Planning Board.

8.6 Duration of Conditional Use Permit

Provided all conditions and standards of approval are maintained, a conditional use permit shall be a permanent grant of permission and shall “run with the land.” However, if the use lapses for a period of two years then the Conditional Use Permit shall cease to be in force.

ARTICLE 9. Performance Standards

9.1 Applicability

The performance standards contained in this article shall apply to all uses and activities in the Town unless otherwise specified, whether or not specific approval or a permit is required.

9.2 Access to Property

Each property shall be provided with vehicular access to the property by abutting public or private ways or roads. Private rights-of-way shall be protected by permanent easements.

9.3 Access Limitations

Any lot created after the effective date of this Ordinance, as part of a subdivision as defined by the Town of Baldwin and State of Maine shall have its required road frontage on a way other than Routes 11, 107, and 113, the Douglas Hill Road, and the River Road unless the Planning Board determines that conditions particular to a parcel justify a waiver from this requirement. A waiver shall be granted only if there will be no further subdivision of the parcel and one of the following conditions is met:

- A. There is too little road frontage to reasonably allow for the creation of a new way.
- B. The shape or physical condition of the parcel does not permit access to or creation of a way.

9.4 Dust, Fumes, Vapors and Gases

Emission of dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited. All such activities shall also comply with applicable Federal and State regulations.

9.5 Glare

No land use or establishment shall be permitted to produce a stray, dazzling light or reflection of that light beyond its lot lines onto neighboring properties, or onto any public way so as to impair the vision of the driver of any vehicle upon that way.

9.6 Industrial Odors

No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, either at ground or habitable elevation.

9.7 Off-Street Parking Standards

A. Applicability

In all new construction, expansions or changes of use there shall be provided off-street parking for their use.

B. Requirements

Off-street parking shall be considered an accessory use when required or provided to serve conforming uses located in any district. An off-street parking space shall be 10 feet wide by 20 feet long exclusive of maneuvering space. The following minimum number of spaces shall be provided and maintained:

Dwellings2 spaces per dwelling unit

Hotels, motels, inns, tourist homes,
rooming houses1 space per sleeping unit

Campground1 space per site

Hospitals, sanatoria, nursing home1 space per 2 beds

Retail, and personal
service establishments1 space per 200 square feet of gross floor area

Eating and drinking establishments.....1 space per 3 seats

Theaters, auditoria, churches.....1 space per 3 seats where fixed seating is provided, and 1
space per 100 square feet of assemblage space if no fixed

seating

Industry, manufacturing,1 space for each 500 square feet of gross floor area
distributionexclusive of storage area

Offices, professional buildings.....1 space per 250 square feet of gross floor area

Mixed usesthe sum of requirements for the individual uses

Uses not specifically listed or ablesufficient number of parking spaces as determined to be
placed into one of the above.....by the Planning Board during site plan review or by categories
.....the Code Enforcement Officer if there is no site
.....plan review to eliminate the necessity of on-street
.....parking

C. Off-Street Parking

In any district where permitted or allowed, commercial industrial uses shall provide, as necessary off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers or containers shall not be located for loading or storage upon any public way.

9.8 Sewage Disposal

Any use which relies on the soils for treatment of wastewater shall comply with the requirements of the Maine State Plumbing Code. The discharge of wastewater other than to soils shall be in compliance with the regulations of the Maine Department of Environmental Protection.

9.9 Soils and Earth-Moving

No person shall perform any act or use of the land in a manner which would cause substantial or avoidable erosion, create a nuisance, or significantly alter existing patterns of natural water flow in the Town.

9.10 Stormwater Drainage

- A. Stormwater drainage systems shall be designed to minimize the volume and rate of outflow from the development.
- B. Design of drainage facilities shall accommodate, at a minimum, a 25-year storm frequency.

ARTICLE 10. Performance Standards for Specific Activities and Land Uses

10.1 Adult Business

- A. "Adult Business" means any business, a substantial or a significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in obscene materials which depict or describe any of the following:
 - 1. human genitals in a state of sexual stimulation or arousal;
 - 2. acts of human masturbation, sexual intercourse or sodomy;
 - 3. fondling or other erotic touching of human genitals, pubic region, buttock or female breast;
 - 4. less than completely and opaquely covered:
 - a. human genitals, pubic region
 - b. buttock
 - c. female breast below a point immediately above the top of the areola; and

5. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- B.** “Viewing booth” means any booth, cubicle, room or stall within the premises of an adult business used to display, by audio or visual reproduction, projection or other means, any of the materials described in subparagraph (2) above.
- C.** “Public building” means a building owned, operated or funded in whole or in part by the Town of Baldwin which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the town hall, the public library, the police station and fire stations.
- D.** Location of adult business restricted. No adult business shall be located:
1. In any location other than within 150 feet of any state highway in existence as of the date of this Ordinance.
 2. In any location where the customer entrance to the adult business would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:
 - a. occupied by a residence, school, child care facility, park, playground, church or public building or
 - b. occupied by another adult business.
- E.** Outside displays prohibited. No materials described in subsection (2) above shall be visible from the exterior of the building in which the adult business is located.
- F.** Design of viewing booths. Viewing booths shall be designed, located and lighted so that the interior of each viewing booth is clearly visible from the interior common areas of the premises and visibility into the viewing booths shall not be blocked or obscured by any doors, curtains, partitions, drapes or any other visual barriers.

10.2 Automobile Graveyard, Automobile Recycling Business and Junkyards

Automobile graveyards, automobile recycling facilities and junkyards shall meet the following standards:

- A.** The site of the yard must be enclosed by a visual screen at least six feet high and built in accordance with rules adopted by the Department of Transportation pursuant to 30-A M.R.S.A. §3759.
- B.** A vehicle with an intact engine or motor shall not be stored within 100 feet of any body of water or freshwater wetland, as defined by 38 M.R.S.A. §436-A, §§5.
- C.** A vehicle shall not be dismantled or stored within 500 feet of a school, church, or public playground or park that existed on the date the permit was issued.
- D.** A vehicle shall not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area.
- E.** A vehicle containing fluids shall not be dismantled or stored within the 100-year flood plain.
- F.** A vehicle shall not be dismantled or stored within 100 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence.
- G.** A vehicle shall not be located or dismantled closer than 20 feet from any lot line unless the operator has notarized written permission from the abutting property owner.
- H.** Dismantling of a vehicle shall be performed in accordance with the following standards.
1. The battery must be removed.
 2. Engine lubricant, fuel, transmission fluid, brake fluid and engine coolant must be drained into

watertight, covered containers and must be recycled or disposed of in accordance with applicable federal or state laws, rules or regulations.

3. Fluids from a vehicle shall not be permitted to flow or be discharged into or onto the ground. A clay lined or concrete barrier must be utilized and maintained.
4. A recycling operation must comply with all applicable federal or state laws related to hazardous materials.

10.3 Automobile Repair Garage and Automobile Service Station

All automobile repair garages and automobile service stations shall meet the following provisions.

- A. For safety reasons, in repair garages, floors shall be nonflammable and nonabsorbent. The applicant shall inform the fire department of storage of more than five gallons of inflammable liquids and more than four tanks of inflammable gases or oxidizers.
- B. The applicant shall maintain a waste disposal plan for tires, antifreeze, batteries and oil and maintain secondary containment for waste fluids. Provision shall be made for proper drainage so that contaminated material, rust or other noticeable effluent does not go beyond actual building site.
- C. The applicant shall maintain a neat and businesslike appearance with inside storage of parts and materials. The Planning Board may limit the number of vehicles for sale. The Planning Board may limit the number of vehicles parked on the lot and the number of parking spaces.
- D. Signs shall not exceed 25 square feet or be more than ten feet above ground.

10.4 Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

A. Areas containing water-carried sewage facilities

Recreational vehicle and tenting areas containing approved water-carried sewage facilities shall meet the following criteria:

1. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways.
2. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.
3. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace.

B. Areas without water-carried sewage facilities

Recreational areas without water-carried sewage facilities shall contain a minimum of 20,000 square feet, not including roads and driveways, for each recreational vehicle, tent or shelter site.

C. Setbacks

The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of 100 feet from the exterior lot lines of the camping area and 100 feet from the normal high water elevation of any water body.

D. Screening

All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than 25 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six feet in height.

10.5 Clustered Residential Development Standards

A. Definition

Clustered residential development is a form of housing development which allows the developer flexibility in subdivision and housing design, including use of single-family attached dwellings, in return for setting aside a portion of the tract of land as permanent open space, in accordance with this section.

B. Purpose

Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving proposed residential subdivisions in Rural and Village Commercial Districts may modify provisions relating to space and bulk to permit innovative approaches to housing and environmental design in accordance with the following standards. Such modifications of space provisions shall not be construed as granting variances to relieve hardship. The purpose of this section shall be to encourage housing development that will result in:

1. open space and recreation areas;
2. variety and choice of housing;
3. a pattern of development in harmony with the natural features of the land;
4. efficient use of the land, with small networks of utilities and streets

C. Procedure

Proposed clustered residential development shall be considered residential subdivisions and shall be reviewed by, and final decisions shall be made by, the Planning Board in the same manner as subdivisions. The applicant must demonstrate right, title, or interest in the land which is the subject of the application.

D. Standards

The standards of review of a clustered residential subdivision shall be those of subdivision review and the following:

1. Each building shall be an element of an overall plan for site development. For any proposed development designed pursuant to the standards of this section, the Planning Board may approve the use of single family attached as well as detached dwellings, but not multi-family dwellings unless otherwise allowed as a permitted use or a conditional use in the district.
2. No clustered residential development shall exceed the allowable residential densities otherwise permitted in the district. For the purposes of this section, residential density shall be calculated as the number of units per net lot area, as defined by this Ordinance.
3. If the development is of individual lots for single family detached dwellings:
 - a. the development shall contain a minimum of five lots;
 - b. lot size shall not be reduced to less than 50percent of that required by the district requirements;
 - c. minimum frontage requirements for each lot shall not be reduced by more than 75percent
 - d. front yard setbacks shall not be reduced to less than 50percent
 - e. side yard setbacks shall together contain a total of at least 20 feet;
 - f. no structure shall be located within 25 feet of the development's perimeter boundary line.
4. If the development does not include creation of individual lots for single family detached dwellings:

- a. the parcel of land proposed for development shall contain a minimum gross lot area of ten acres and shall have a minimum of 400 feet of frontage;
- b. no building or structure shall be located within 25 feet of the tract's perimeter boundary line;
- c. the minimum distance between principal structures on the same lot shall be equivalent to the height of the taller building;
- d. attached dwellings shall include no more than six such dwellings attached in any single series, and no more than an average of four per series for the development as a whole.

E. Common Open Space

1. The common open space accumulated by modifying space and bulk requirements in the clustered residential development shall be shown on the subdivision plan with appropriate notation that it shall not be used for future building lots.
2. The common open space shall be accessible to the residents of the development, and shall be used to preserve natural features, protect wildlife cover, and for outdoor living purposes.
3. The formation and incorporation by the developer of a homeowners' association shall be a condition of final subdivision approval, with evidence of its accomplishment submitted to the Planning Board prior to final plat approval. Covenants for mandatory membership in the association shall be included in the deed for each lot or unit. The association shall have the responsibility of maintaining the common open space and other private facilities dedicated to the use in common by the development's residents.

F. Site Considerations

In addition to the standards of subdivision review, proposed clustered residential developments shall provide the following:

1. Where possible, building shall be oriented with consideration for scenic vistas, natural landscape features, topography, and potential solar access.
2. All utilities shall be installed underground, unless specifically waived by the Planning Board.
3. Development proposals shall include a landscape program to illustrate the proposed treatment of roads, paths, service and parking areas, and buffers from surrounding uses, and the way in which important natural features are to be preserved. The proposals shall detail any alterations to or improvements to be located in the common open space.
4. Adequate provision shall be made for erosion control and management of stormwater runoff, with particular concern for the effects of effluent draining from the site. Drainage facilities shall be designed to accommodate the 25-year storm.

10.6 Extractive Industry

A. Permit Required. Topsoil, rock, sand, gravel and similar earth materials may be removed from locations where permitted under the terms of this Ordinance only after a Conditional Use Permit for such operations has been issued by the Planning Board. The following earth-moving activities shall be allowed without a Conditional Use Permit from the Planning Board.

1. The removal, or transfer of less than 100 cubic yards of material from or onto any lot in any 12 month period.
2. The removal, or transfer of material incidental to construction, alteration or repair of a building for which a permit has been issued or in the grading and landscaping incidental thereto; and
3. The removal, or transfer of material incidental to construction, alteration or repair of a public or private way or essential service.

All other earth-moving, processing and storage shall require a Conditional Use Permit from the

Planning Board.

B. Submission Requirements

1. Applications to the Planning Board for a Conditional Use Permit, for the excavation, screening or storage of soil (including topsoil), peat, loam, sand, gravel, rock, or other mineral deposits shall be accompanied by a plan prepared according to the performance standards herein.
2. Plans for the proposed extraction site shall include
 - a. A standard boundary survey of the property lines
 - b. Names and addresses of owners of abutting property
 - c. Existing elevations, at not greater than five foot contour intervals as well as the location and slope of the grades proposed upon completion of the extraction operation
 - d. Proposed fencing, buffer strips, signs, lighting.
 - e. Parking and loading areas, entrances and exits.
 - f. A written statement of the proposed method, regularity, working hours.
 - g. Proposed plans and specifications for the rehabilitation and restoration of the site upon completion of the operation.
 - h. An estimate of the elevation of the seasonal high water table within the excavation site shall be submitted. The Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

C. Performance Standards

1. No part of any extraction operation shall be permitted within 150 feet of any property or street line, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet of such line. Natural vegetation shall be left and maintained on the undisturbed land. For an extraction which is in excess of 3000 cubic yards of material per year, no part of any Quarry operation shall be permitted within 1000 feet of any property line, or within 2500 feet of any existing dwelling, or within 500 feet of any street line, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet of such line.
2. If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.
3. No slopes steeper than three feet horizontal to one foot vertical (3:1) shall be permitted at any extraction site unless a fence at least six feet is erected to limit access to such locations.
4. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.
5. Any topsoil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.
6. Sediment shall be trapped by diversions, silting basins, terraces and other measures designed by a professional engineer.
7. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure.
8. No vehicle or equipment, other than passenger vehicles, shall operate at the location outside of the

approved hours of operation. The hours of operation at any Quarry or Mineral Extraction site shall be prominently displayed at the entrance to the site. Hours of operation shall not exceed 7a.m. to 5p.m., Monday thru Friday, and 7a.m. to 1p.m. on Saturdays. No Sunday operations shall be permitted. In the event of an emergency request from public safety officials for sand or gravel, the Town selectmen may temporarily authorize alternative hours of operation.

9. Excavation shall not extend below five feet above the seasonal high water table without the submission of detailed findings of the depth of the water table. The Board may, upon verified determination of the depth of the seasonal high water table permit excavation within two feet above the water table.
10. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Road Commissioner. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.
11. All access/egress roads leading to or from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways.
12. Subject to 10.6.C.13, no materials, debris, or junk intended to be processed, stored, or disposed at the site may be brought in from a location outside of the property. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.
13. Within six months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board.
 - a. All debris, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.
 - b. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
 - c. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 - d. At least four inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and property restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices", published by the Cumberland County Soil and Water Conservation District.
 - e. No slope greater than three feet horizontal to one foot vertical (3:1) shall be permitted.
14. No part of any Quarry operations, access / egress roads shall be permitted within 1000 feet of any existing dwellings. Both Quarry and Mineral Extraction operations, which are in excess of 3000 cubic yards of materials per year, shall meet the following conditions:
 - A. All unpaved public ways used to access the site shall be paved and brought up to Town standards for a paved road at the expense of the site's operator to reduce dust, noise and damage from heavy truck traffic.
 - B. All access roads on the site shall be treated with suitable materials and maintained at the expense of the operator to reduce dust.
 - C. The operator is responsible for the costs of upgrading roadways to safeguard against the hazards of slowly accelerating truck traffic where access roads or public ways used by the operator join those roadways, including the cost of conducting a traffic study.
15. A bond submitted by the Quarry or Mineral Extraction operator shall be established and maintained covering the cost of the reclamation plan.

16. The following studies shall be conducted and paid for by the applicant prior to the granting of a conditional use permit:
 - A. A hydrological study which shows the depths of the ground water and establishes that the site operation will not cause any pollution to ground water and/or surface water:
 - B. A traffic study which sets forth what the maximum estimated volume of traffic into and out of the site will be, which describes the kinds of trucks and equipment which will be going into and out of the site, which describes any existing or potential traffic hazards on roads servicing the site and applicant's plans to address them and which describes the ability of such roads physically to withstand the additional traffic generated by the site. The study shall consider the actual existing traffic condition in the vicinity of the site;
 - C. A noise study shall be conducted.
17. A buffer strip of one hundred {100} feet from all rights-of way and two hundred {200} feet from all other boundaries of the property is required. No extraction or operation is permitted within the buffer strip. Natural vegetation shall be retained within the buffer area, except as recommended by a professional forester pursuant to Best Forest Management Practices and approved by the Planning Board. To the extent necessary to protect neighboring uses from dust, noise and unsightly appearance, the Planning Board may require the applicant to provide screening, berm, or a combination where there is an inadequate natural buffer.
18. The applicant shall provide satisfactory plans to control dust, noise and unsightly appearances due to the operations of the site. The Planning Board may require such items as the sweeping, paving and watering of the access roads, or the maintenance of the existing vegetation, growth or in-fill planting to increase density of vegetation, or the placement of the earth berm, or the use of water bars on crushing equipment to control dust or other best management practices.
19. A reclamation plan must be submitted to the Planning Board, and the site shall be reclaimed in accordance with the requirements of this section. The reclamation work shall be completed within twelve {12} months of the closing of a site {or a portion of a site with regard to phased reclamation plans} or approval of the reclamation plan, whichever occurs later. Reclamation of continuing operations shall be conducted in Phases, so that there is never open more than five {5} acres of pit area or fifty {50} percent of the pit area for pits less than five {5} acres in size. Failure to remove more than four hundred {400} cubic yards of material from a pit within any 24 month period shall trigger the obligation of the site operator to commence reclamation. The following requirements shall be met:
 - A. Upon default of any obligation to reclaim a site under this section, the Town may, after written notice and an opportunity to be heard by the Board of Appeals, cause the site operator's reclamation plan to be implemented pursuant to the bond referred to in Section 10.6.C.15.
 - B. Reclaimed areas shall be guaranteed for a period of eighteen {18} months following the substantial completion of reclamation, during which the bond shall remain in full force and effect. All reclamation plans shall state specific time requirements for commencement and substantial completion, which times may be staggered for phased extraction work.
20. No Quarry or Mineral Extraction site shall be permitted within 2500 feet of the boundary of a Resource Protection Zone.
21. The following terms are defined as follows:
 - A. Quarry- a site where rock is blasted or excavated from the ground.
 - B. Mineral Extraction- a site where sand, gravel or loam are excavated from the ground.

D. Existing Operations

1. Any operation involving the excavation, processing, or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this section becomes effective, and which meets the criteria for requiring a Conditional Use Permit, may operate for a period of five years from the effective date without Planning Board approval. Existing operations, however, must submit to the Planning Board within ninety days of the effective date of this section, a map indicating the area within which earth removal activity is anticipated within the five year period, and the area which has already been subject to earth removal activity. Failure to submit the above map within 90 days shall result in the loss of grandfathered status for that operation. Within 30 days of the effective date of this section, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his knowledge, contain existing operations, informing them of the requirements of this section.
2. Discontinuation of any existing operation for a period of more than one year shall result in the loss of grandfathered status for that operation. Discontinuation is defined as being the excavation, processing or storage of less than ten cubic yards of material.
3. Upon effective date of this Ordinance and every five years thereafter the Code Enforcement Officer shall Publish notice and require all grandfathered Quarry and Mineral Extraction operations to report on their activities at the site and the Code Enforcement Officer shall inspect each site to ensure that each site is in operation. Failure to comply shall result in loss of grandfathered status.

10.7 Kennels and Veterinary Hospitals

- A. Structures or pens for housing or containing the animals shall be located not less than 100 feet from the nearest residence existing at the time of permit.
- B. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationships of the use to the topography, natural and planted horticultural screening, the direction and intensity of prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
- C. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
- D. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- E. If outdoor dog "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.
- F. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from nearest residence other than the applicants, and shall have a chimney vent not less than 35 feet above the average ground elevation. The applicant shall also provide evidence that he/she has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.
- G. All other relevant performance standards in Article 9 of this Ordinance shall also be observed. The Department of Agriculture, Food and Rural Resources Division of Animal Health and Industry Rules Governing Animal Welfare shall apply.

10.8 Barking Dog

- A.** No owner or keeper of any dog kept within the legal limits of the Town of Baldwin shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking, howling or other loud or unusual noises anytime day or night.
- B.** Upon written complaint by the person disturbed, signed and sworn to, any constable, duly qualified law enforcement official, animal control officer or person acting in that capacity of the Town of Baldwin may investigate and may give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint. Thereafter, upon continuance of such annoyance or disturbance, such owner shall be guilty of a civil violation and upon conviction thereof shall be punished by a fine of \$50.00 for the first offense. Each additional conviction after the first conviction shall be punished by a fine of \$50.00. All fines so assessed and attorney fees shall be recovered for the use of the Town of Baldwin through District Court.

10.9 Temporary Dwellings

- A.** In those districts in which temporary dwellings are allowed as a conditional use, the Planning Board may permit the placement of a temporary dwelling on a lot, without an increase in lot area, under the following conditions:
 - 1. It is documented to the satisfaction of the Board that the temporary dwelling will house a relative of the resident of the principal dwelling on the lot, and that the relative, due to medical necessity, must be near the resident of the principal dwelling.
 - 2. It is certified in writing by the applicant that the temporary dwelling will be removed from the lot when it is no longer needed by said relative.
 - 3. It is certified in writing by the local plumbing inspector that the wastewater disposal system serving the lot is sufficient to accept additional wastewater flows from the temporary dwelling, and that the temporary dwelling meets all requirements of the local and state plumbing and building codes.
 - 4. The temporary dwelling contains at least 400 square feet of living area, and all space and bulk standards other than minimum lot area per dwelling unit are met.
- B.** Approval by the Planning Board of a conditional use permit for a temporary dwelling shall not also require a variance or a demonstration of undue hardship.
- C.** In the event a primary residence is rendered uninhabitable due to fire or other catastrophic event. The Code Enforcement Officer may immediately issue a permit for a temporary dwelling. Such dwelling shall conform to safety standards and shall be connected to on-site water and subservice waste disposal.

The duration of this temporary permit shall be no longer than 12 months and may be renewed for no more than one 12-month period. Within 30 days of issuance of an occupancy permit for the primary dwelling, the temporary dwelling shall be removed from the lot and the permit extinguished. There will be no charge for the temporary permit.

10.10 Shooting Ranges

- A. PURPOSE:** This Shooting Range Ordinance is to regulate the establishment and operation of outdoor Shooting Range Facilities pursuant to 12 M.R.S.A. § 13201 (1) and 25 M.R.S.A. § 2011 (3), as they may be amended, and 30-A M.R.S.A. § 3001 *et seq.* (Maine's Home Rule Law). Due to their potential noise impacts and safety concerns, Shooting Range Facilities merit careful review to minimize adverse effects on adjoining properties. This Ordinance does not otherwise apply to the general discharge of

Firearms or the use of bows and arrows in accordance with all other applicable laws or regulations. This ordinance also does not apply to Target practice areas on private property, including shooting positions, shelters, or shot containment structures for family or family friends that are used on an occasional, non-commercial basis.

- B. APPLICABILITY:** This Ordinance is applicable to all Shooting Range Facilities in the Baldwin.
- C. PERMITTING, REGISTRATION, AND COMPLIANCE:** New Shooting Range Facilities shall only be established and operated in accordance with a valid conditional use permit issued by the Baldwin Planning Board.
- D. SHOT CONTAINMENT:** Each Shooting Range Facility shall be designed to contain the bullets, shot, and ricochets of same discharged at or within the Shooting Range Facility.
- E. NOISE MITIGATION:** Each Shooting Range Facility shall be designed to minimize off-site noise impacts generated by the activities conducted on the Shooting Range Facility. Noise levels measured at the property line where the Shooting Range Facility is operated or, in the case of leased land, at the property line of any leased parcel, shall not exceed sixty-five (65) dBA when said property line is located within one thousand (1,000) feet of an Occupied Dwelling, subject to the limitations of 30-A M.R.S.A. 3011, as it may be amended.
- F. MINIMUM DESIGN REQUIREMENTS:** Where not otherwise specified within this Ordinance, Shooting Range Facilities shall meet or exceed the design standards specified by the NRA Range Source Book.
- G. SETBACKS:** The following setbacks shall apply.
 - 1. All shooting stations and Targets on a Shooting Range Facility shall be located a minimum of three hundred (300) feet from any property line; and
 - 2. The Surface Danger Zone shall be contained within the property boundary line.
- H. WARNING SIGNS:** Warning signs meeting or exceeding the standards set forth in the NRA Range Source Book shall be posted at one hundred-foot intervals along the entire perimeter of the Shooting Range and along the entire perimeter of the property lines in the same intervals.
- I. DISTANCE FROM OCCUPIED DWELLING:** All shooting stations, Targets, and firing lines shall be located at least one-half (1/2) mile (two thousand six hundred forty (2,640) feet) from any existing Occupied Dwelling.
- J. ACCESS TO SHOOTING RANGE FACILITY:** Access to the Shooting Range Facility and Shooting Range shall be secured and controlled, with ingress and egress permitted only during those operating hours.
- K. MAINTENANCE:** Where not otherwise specified within this Ordinance, Shooting Range Facilities shall be operated and maintained in a manner that shall meet or exceed the standards specified in the latest edition of the NRA Range Source Book.
- L. LEAD MANAGEMENT PRACTICES:** Each Outdoor Shooting Range Facility shall provide a plan outlining its management practices relating to lead management. Said plan shall meet or exceed the standards set forth in the EPA Lead Management Guidelines.
- M. HOURS OF OPERATION:** Shooting Range Facilities shall be allowed to operate between 9:00 AM and 5:00 PM daily.

- N. LIABILITY INSURANCE:** The shooting range permit holder shall be required to carry a minimum of Three Million Dollars (\$3,000,000.00) per occurrence of liability insurance. Such insurance shall name the Town as an additional insured and shall save and hold the Town, its elected and appointed officials, and employees acting within the scope of their duties harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a Person or group's members or employees or third parties on account of any property damage arising out of the acts or omissions of the permit holder, his/her group, club, or its agents or representatives. The Town shall be notified of any policy changes or lapses in coverage.
- O. PERMIT APPLICATION:** An application to establish and operate a Shooting Range Facility shall be submitted by the legal property owner(s) to the Baldwin Planning Board. Such permit shall be obtained prior to application for any grading, building or improvement permit from the Town *(but any permit holder may thereafter construct any Structure or other improvement deemed necessary for the purpose of issuing said permit)*
- P. REQUIRED INFORMATION:** The applicant shall provide sufficient information to demonstrate compliance with these provisions. These shall include but not be limited to the following:
- Q. SITE PLAN:** A site plan for the entire Shooting Range Facility which shows the following applicable information drawn to an appropriate scale, shall accompany the permit application:
1. Property lines for any parcel upon which the Shooting Range Facility is to be located, north arrow, plan scale, date, and ownership information for the site;
 2. Complete layout of each Shooting Range Facility, including, shooting stations or firing lines, Target areas, shot-fall zones or backstops, berms, and baffles, if any;
 3. Projected noise contours sufficient to demonstrate compliance as determined by an engineer;
 4. Existing and proposed Structures; Occupied Dwellings within one-half (1/2) mile (two thousand six hundred forty (2,640) feet)); roads, streets, or other access areas; buffer areas; and parking areas for the Shooting Range Facility; and
 5. Any other appropriate information related to the specific type of Shooting Range Facility, whether existing or proposed.
- R. ABANDONMENT AND DISCONTINUANCE:** When a Shooting Range Facility is discontinued without the intent to reinstate the Shooting Range use, the property owner shall notify the Town of such intent. In any event, the discontinuance of the Shooting Range Facility or non-use of the Shooting Range Facility for a period in excess of one year shall create the presumption said Shooting Range Facility is abandoned, and any current, valid permits issued shall terminate.
- S. BACKGROUND CHECK:** Upon receipt of an application for a new Shooting Range Facility, the selectmen will commission a criminal records check on the owner and lessee, if any, of the property on which the Shooting Range Facility is to be located and on the individual designated by the owner to operate the Shooting Range Facility, if different from the owner. Upon completion of the criminal records check, the Police Department will forward its findings to the Selectmen.
- T. MUNICIPAL HEARING:** Following receipt of the Firing Range permit application, the planning board shall hold a public hearing to determine whether to issue a conditional use permit. A Firing Range permit shall be conditional for the first year after which the Planning Board will issue a final permit if no violations of this ordinance have occurred.
- U. CHANGES OR EXPANSIONS:** If any Shooting Range Facility is intended to be changed or expanded to include types of Shooting Ranges, operations, or activities not covered by an existing permit, a new permit for the entire facility shall be secured in accordance with all of the provisions of this Ordinance. Further, any permit issued hereunder does not relieve the permit holder of compliance with all other applicable Town ordinances.

V. ENFORCEMENT, REMEDIES, AND PENALTIES:

1. **ENFORCEMENT AND REMEDIES:** The Town's Code Enforcement Officer shall be **responsible for** the enforcement of this Ordinance. Any violation of this Ordinance or of any condition or requirement adopted pursuant to these provisions may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings as allowed by state law. Any permit issued under this Ordinance may be suspended or revoked following a public hearing before the municipal officers following a review and recommendation by the Planning Board.
2. **CIVIL PENALTIES:** Any Person who violates any of the provisions of this Ordinance shall be subject to a civil penalty of not less than \$100.00 per violation plus costs of prosecution, including but not limited to attorney's fees. No penalty shall be assessed until the Person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation and any such penalty shall be recovered for the use of the Town.

10.11 MEDICAL CANNABIS

- A. PURPOSE:** The purpose of this ordinance and related guidelines is to regulate the cultivation, processing, storage, and distribution of medical cannabis consistent with the Town of Baldwin Land Use and Development Ordinance and the Maine Medical Use of Marijuana Act (Maine Revised Statutes Title 22, Chapter 558-C).

B. APPROVAL PROCESS

Any proposal to establish a new, or alter an existing, medical cannabis registered dispensary or medical cannabis production facility shall require approval of the Planning Board as a conditional use. Medical cannabis registered dispensaries or medical cannabis production facilities existing prior to this ordinance shall also require approval of the Planning Board as a conditional use. The Planning Board and applicant shall follow: the application process, the review process, performance standards of this ordinance, and the inherent authority of the Planning Board as defined by Article 4 (Administration and Enforcement) of the Land Use Ordinance of the Town of Baldwin. Notification of site walks and public hearings shall include all property owners within 500 linear feet, measured in a straight line from the property boundary of the proposed dispensary or facility. Notification of property owners shall be mailed at least ten days before the scheduled site walk and public hearing. The Planning Board shall be responsible for mailing notifications to property owners to the address identified in the Tax Assessment Book. In addition to other public notification requirements, the town shall notify the Cumberland County Sheriff's Office, the Maine Department of Health and Human Services – Center For Disease Control and Prevention (or its successors), and the Maine Revenue Services prior to the public hearing on any application.

C. STATE AUTHORIZATION

Before submission of a conditional use application, the applicant must demonstrate to the Planning Board their authorization to cultivate, process, store and distribute medical cannabis pursuant to the Maine Medical Use of Marijuana Act (Maine Revised Statutes Title 22, Chapter 558-C).

D. EXEMPTIONS

As an accessory use, medical cannabis home production shall be allowed in any qualifying patient's primary year-round residence (as defined by Maine Revenue Services) or any registered medical cannabis caregiver's primary year-round residence (as defined by Maine Revenue Services) in every Land Use District, without any requirements for land use permitting. This exemption shall also extend to registered medical cannabis caregivers who cultivate, process or store medical cannabis in a qualifying patient's primary year-round residence (as defined by Maine Revenue Services) for that qualifying patient's sole use.

E. PERFORMANCE STANDARDS

In addition to other requirements of this section and related provisions of the Town of Baldwin Land Use Ordinance, the following shall apply to any application for a new or amended medical cannabis registered dispensary or a medical cannabis production facility:

1. Medical Cannabis Registered Dispensary Limit

There shall be no more than one medical cannabis registered dispensary in the Town of Baldwin.

2. Medical Cannabis Production Facility Limit

There shall be no more than four registered medical cannabis caregivers allowed to operate within a single medical cannabis production facility.

3. Density Limit

Only one medical cannabis production facility shall be permitted per lot. Additionally, no medical cannabis production facility shall be located on a lot that is within 500 linear of another lot on which a medical cannabis production facility or medical cannabis dispensary is located. This separation requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.

4. Proximity Location to Other Uses

No medical cannabis registered dispensary or medical cannabis production facility shall be closer than 500 linear feet, measured in a straight line from the dispensary or facility property boundary, to the nearest point on the boundary of any property which is occupied by an existing medical cannabis production facility, licensed day care facility, school, church or town owned property (excluding town owned roads).

5. Security

Before granting a Conditional Use permit, the Planning Board shall require that the applicant has reviewed the applicant's property and building security plans with the Cumberland County Sheriff's Department and the Sheriff's Department finds the security measures are consistent with state requirements.

6. Outside Appearance

No signs containing the word "marijuana", "cannabis", "420", "710" or any other terms to indicate medical cannabis presence, or any

graphics/images such as a green cross or any portion of a marijuana plant or otherwise identifying medical cannabis shall be erected, posted or in any way displayed on the outside of a medical cannabis registered dispensary or a medical cannabis production facility. Interior advertisements, displays of merchandise or signs depicting the activities of a medical cannabis registered dispensary or a medical cannabis production facility shall be screened to prevent public viewing from outside such facility.

7. Odorous Air Contaminants

It shall be an unlawful nuisance for any person to cause or permit the emission of odorous air contaminants from any source so as to result in detectable odors that leave the premises upon which they originate and interfere with the reasonable and comfortable use and enjoyment of property. Upon the following occurrence, any odor will be deemed to interfere with reasonable and comfortable use and enjoyment of property:

- (i) No odors associated with this use shall be detectable beyond the property boundaries.

8. Nuisance for Radio Frequency (RF) Noise, Light, Blower Noise

It shall be an unlawful nuisance for anyone to cause or permit the emissions of electromagnetic emissions from any grow lights or environmental controls that cause detectable interference to any licensed radio communications.

All medical cannabis dispensaries and medical cannabis production facilities will be subject to light and noise standards during their Conditional Use Permit (CUP) process.

9. Approved Locations

All medical cannabis registered dispensaries and medical cannabis production facilities will be subject to the Conditional Use Permit process used by the Planning Board.

Medical cannabis registered dispensaries shall only be permitted in the Village Commercial (VC) District.

Medical cannabis production facilities shall only be permitted in the VC District. Further, medical cannabis production facilities shall be prohibited from operating in the Natural Resource Protection (RP) District, Highland (H) District and the Rural (R) District.

F. VALIDITY AND SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid or unlawful, such decision shall not invalidate any other section or provision of this ordinance.

DEFINITIONS

Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana.”

Medical Cannabis: Cannabis that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition.

Medical Cannabis Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of cannabis in accordance with state law. A person who is a registered medical cannabis caregiver must be at least twenty-one (21) years of age and may not have been convicted of a disqualifying drug offense.

Medical Cannabis Land Uses: Any of three (3) types of land uses, defined below, that cover the full range of options for lawful cultivating, processing, storing and distributing medical cannabis.

1. **Medical Cannabis Home Production (Land Use):** Cultivating, processing and/or storing of medical cannabis by a qualifying patient at their own primary year-round residence or a registered medical cannabis caregiver at their own primary year-round residence for use by a qualifying patient. This definition shall also extend to registered medical cannabis caregivers who cultivate, process or store medical cannabis in a qualifying patient’s primary year-round residence for that qualifying patient’s sole use. This shall be considered an accessory use.
2. **Medical Cannabis Production Facility (Land Use):** A facility used for cultivating, processing, and/or storing medical cannabis by one or more registered medical cannabis caregiver(s) at a location which is not the registered medical cannabis caregiver’s primary year-round residence or their patient’s primary year-round residence. This shall be considered a commercial use.
3. **Medical Cannabis Registered Dispensary (Land Use):** A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis, paraphernalia or related supplies and educational materials to qualifying patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial use.

ARTICLE 11. Site Plan Review

11.1 Applicability

This section shall apply to:

- A. proposals for new construction or enlargement of nonresidential buildings or structures and of multi-family dwellings, including accessory building or structures, if such new construction or enlargement has a total area for all floors of more than 5,000 square feet.
- B. proposals to pave, remove earth materials from, or grade areas more than two acres within a five-year period, when there is no plan to revegetate the disturbed area.

This section does not apply to single-family detached, single-family attached, or two-family dwellings, to agricultural land management practices and forest management practices.

11.2 Procedure

- A. No building permit or plumbing permit shall be issued by the Code Enforcement Officer or Local Plumbing Inspector for any use or development within the scope of this Article until a site plan of development has been approved by the Planning Board.
- B. Every applicant applying for site plan approval shall submit to the Code Enforcement Officer two copies of a complete site plan of the proposed development, which shall be prepared in accordance with Article 11, Section 11.3, accompanied by the appropriate.
- C. Within 45 days after the date on which the site plan application first appears on the Planning Board agenda, the Planning Board shall act to approve, approve with conditions or disapprove the site plan application submitted or amended. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant. During this 45-day period the Planning Board may schedule an on-site visit.
- D. No application for site plan development shall be considered complete or may be acted upon by the Planning Board until all special exceptions and/or variances which may be required for the proposed development first have been obtained from the Board of Appeals.
- E. Within seven days of reaching its decisions, the Planning Board shall notify the applicant in writing of its action and the reason for taking such action.

11.3 Site Plan Content

When the owner of the property or his authorized agent makes formal application for site plan review, his

application shall contain at least the following exhibits and information:

- A. A fully executed and signed copy of the application for site plan review;
- B. Two copies of a site plan drawn at a scale sufficient to allow review of the items listed under the approval criteria, but at not more than 50 feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
 - 1. owner's name and address;
 - 2. names and addresses of all abutting property owners;
 - 3. sketch map showing general location of the site within the Town;
 - 4. boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
 - 5. zoning classifications of the property and the location of zoning district boundaries if the property is located in two or more zoning districts or abuts a different zone;
 - 6. the bearings and distances of all property lines of the property to be developed and the source of this information. The Planning Board may require a formal boundary survey when sufficient information is not available to establish, on the ground, all property boundaries;
 - 7. the location of all building setbacks required by this Ordinance;
 - 8. the location, dimensions, and ground floor elevations of all existing and proposed buildings on the site;
 - 9. the location and dimensions of driveways, parking and loading areas, and walkways.
 - 10. location of intersecting roads or driveways within 200 feet of the site.
 - 11. the location and dimensions of all provisions for water supply and wastewater disposal;
 - 12. the location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained and of any new landscaping planned;
 - 13. the direction of drainage across the site, both existing and proposed;
 - 14. location, front view, and dimensions of existing and proposed signs;
 - 15. location and dimensions of any existing easements and copies of existing covenants or deed restrictions;
 - 16. location and type of exterior lighting;
 - 17. copies of applicable State approvals and permits, provided, however, that the Planning Board may approve site plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of site plan review.

11.4 Supplemental Information

The Planning Board may require any or all of the following submissions where it determines that, due to the scale, nature of the proposed development or relationship to surrounding properties, such information is necessary to assure compliance with the intent and purposes of this Ordinance.

- A. Existing and proposed topography of the site at two-foot contour intervals, or such other interval as the Planning Board may determine.
- B. A stormwater drainage and erosion control plan showing:
 - 1. the existing and proposed method of handling stormwater run-off;
 - 2. the direction of flow of the run-off through the use of arrows;

3. the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
 4. engineering calculations used to determine drainage requirements based upon a 25-year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed;
 5. methods of controlling erosion and sedimentation during and after construction.
- C. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.
- D. A planting schedule keyed to the site plan and indicating the varieties and sizes of trees, shrubs, and other plants to be planted on the site.

11.5 Waiver of Submission Requirements

The Planning Board may modify or waive any of the submission requirements when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the Town.

11.6. Approval Criteria

The following criteria are to be used by the Planning Board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved unless in the judgment of the Planning Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

A. Preserve and Enhance the Landscape

The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil, and by retaining existing vegetation during construction. After construction is complete, landscaping shall be designed and planted to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures and to minimize the encroachment of the proposed use on neighboring land uses.

B. Erosion Control

Filling, excavation, and earth moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum, including:

1. preservation and protection of natural vegetation where possible;
2. keeping duration of exposure of disturbed soils to as short a period as possible and stabilizing the disturbed soils as quickly as practicable;
3. use of temporary vegetation or mulching to protect exposed critical areas during development;
4. where appropriate or necessary, use of debris basins, sediment basins, silt traps or other acceptable methods to trap the sediment from stormwater runoff;
5. no storage of fill materials within 50 feet of the banks of any stream, intermittent or perennial, or water body;
6. no removal of topsoil from any lot, except for that removed from areas to be occupied by buildings, paving, or other surfaces that will not be revegetated.

C. Vehicular Access, Parking and Circulation

The proposed site layout shall provide for safe access to and egress from public and private roads:

1. any exit driveway shall be so designed as to provide the following minimum sight distance measured in each direction, as measured from the point 12 feet behind edge of traveled way.

Required Site Distance	
Posted Limit (miles per hour)	Distance (feet)
25	250
30	300
35	350
40	400
45	450
50	500
55	550

2. the streets serving the site shall be adequate to carry the anticipated traffic, and the site plan shall locate points of access to avoid hazardous conflicts with existing turning movements and traffic flows;
3. pedestrian ways shall be safely separated from vehicular traffic;
4. the layout and design of parking and loading areas, including the number of spaces provided, shall conform with the off-street parking and loading standards of this Ordinance.

D. Surface Water Drainage

Adequate provision shall be made for surface drainage so that removal of storm waters will not have an unreasonably adverse effect on neighboring properties, downstream water quality, soil erosion or the public storm drain system. Whenever possible, on-site absorption of runoff waters shall be used to minimize discharges from the site. Drainage facilities shall be designed for a 25-year storm frequency.

E. Utilities

The development shall not impose an unreasonable burden on existing utilities.

F. Special Features of Development

Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have setbacks and screening to provide a buffer to sight and sound sufficient to minimize their adverse impact on other land uses within the development area and on surrounding properties.

G. Exterior Lighting

All exterior lighting shall be designed and shielded to avoid undue adverse impact on neighboring properties and rights-of-way.

H. Emergency Vehicle Access

Provisions shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times of the year, including 20 foot wide fire lanes at locations as may be recommended by the fire department.

11.7 Expiration of Approval

Approval of the site plan and any building permit issued for development within the scope of this Ordinance shall expire after a period of 24 months after the date of site plan approval if development has not begun.

ARTICLE 12. Amendment and Other Legal Provisions

12.1 Interpretation

Interpretation of what may not be clear in this Ordinance shall be according to the intent of the Ordinance and the comprehensive plan.

12.2 Conflict with Other Ordinances

Whenever a provision of this Ordinance conflicts or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the provision imposing the greater restriction upon the use of the land, buildings or structures shall control.

12.3 Severability

Should any section or part of a section or any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

12.4 Amendment

No land use regulation or amendment thereof or change in the Official Land Use Map shall be adopted until after the Planning Board has held a public hearing thereon at least ten days before it is submitted to the legislative body for consideration. Public notice of the hearing shall be made at least ten days prior to the hearing. Amendments to this Ordinance shall be considered following petition, recommendation of the Planning Board, or motion of the Selectmen. The petitioner shall bear the cost of advertising and of any postage for notification of neighboring property owners.

12.5 Effective Date

The Land Use Ordinance herein shall be enacted and be of full force and effect on the day of approval of this Land Use Ordinance by the voters of the Town of Baldwin at a town meeting.

**Town of Baldwin
Growth Ordinance
Adopted March 8, 2003
Amended March 26, 2005**

1. Title

This ordinance shall be known as the "Growth Ordinance of the Town of Baldwin, Maine" and shall be referred to herein as the "Ordinance".

2. Legal Authority

This Ordinance is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution, 30-A M.R.S.A. section 3001 and 30-AM.R.S.A. section 4323.

3. Purpose

The purpose of these Amendments is to further protect the health, safety and general welfare of the residents of Baldwin by ensuring that applicants are fairly treated and that no person shall gain advantage in the permit process by commencing construction of a residential structure prior to obtaining a growth permit.

- A. to provide for the immediate housing needs of the existing residents of the Town of Baldwin;
- B. to ensure fairness in allocation of building permits;
- C. to plan for continued residential population growth in Baldwin which will be compatible with orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, and waste disposal services;
- D. to avoid circumstances in which the rapid development of new residences, potentially housing many families with school age children, would outpace the Town's, and region's, capability to expand its schools and other necessary services soon enough to avoid serious school overcrowding and a significant reduction in the level and quality of other municipal services.

4. Definitions

A. Applicant: The person or entity in whose name a growth permit application is submitted to the Code Enforcement Officer.

1) If the named applicant is a natural person, the term "applicant" shall also include: all persons related to the named applicant and all entities in which the named applicant, or

any person related to the named applicant, owns or controls a 10% or greater interest:

2) If the named applicant is other than a natural person, the term "applicant" shall also include: all persons related to stakeholders of the named applicant and all entities in which a stakeholder or any person related to a stakeholder owns or controls a 10% or greater interest.

B. **Building permit:** A permit issued by the Code Enforcement Officer pursuant to Article 4.2 of the Land Use Ordinance of the Town of Baldwin.

C. **Code Enforcement Officer:** The Town Of Baldwin Code Enforcement Officer, as defined in Article 2.2 of the Land Use Ordinance of the Town of Baldwin, or an authorized agent thereof

D. **Dwelling Unit:** A dwelling unit as defined in Article 2.2 of the Land Use Ordinance of the Town of Baldwin.

E. **Elderly household:** A household which includes at least one elderly person and no occupant less than 55 years of age other than a full-time caregiver to or a spouse Of companion of the elderly person.

F. **Elderly person:** A person aged 55 years or older.

G. **Family Gift Lot;** A lot which is not within a subdivision (as defined herein) and which has been created by a gift from a parent (or grandparent) to a child (including an adopted child, or stepchild or grandchild) or from a child (or grandchild) to a parent (including an adoptive parent; stepparent or grandparent:)

H. **Gift:** The conveyance of property for which the grantor receives no money, property or any other value as consideration for such conveyance.

I. **Gifttee:** A person receiving a gift of a family gift lot.

J. **Giftor:** A person who gifts a family gift lot.

K. **Growth Permit:** A permit, issued in accordance with the provisions of this Ordinance, which allows the issuance of a building permit for the construction, creation or placement of one new dwelling unit within the Town of Baldwin.

L. **Persons related to:** A person who is a spouse, parent, brother, sister or child by blood, marriage or adoption.

M. **Subdivision:** A subdivision as defined in 30-A M.R.S.A. section 4401, as such may be amended from time to time, and approved by the Baldwin Planning Board pursuant to the Subdivision Ordinance on or after March 10, 2001.

5. Applicability

Except as provided in Section 6 below, this Ordinance shall apply to the construction, creation or placement of any new dwelling unit within the Town of Baldwin.

6. Exemptions

This Ordinance shall not apply to:

- A. the repair, replacement, reconstruction or alteration of an existing dwelling unit.
- B. construction of dwelling units in housing for the elderly which is constructed, operated, subsidized or funded (in whole or in part) by any agency of state or federal government.
- C. construction of dwelling units in the village commercial district as set forth by the Town of Baldwin's Zoning Map.
- D. a dwelling unit on a family gift lot, provided that the giftor has maintained legal ownership of the family gift lot for a minimum of five(5) consecutive years prior to the gift and provided that no more than one building permit can be issued to anyone giftee pursuant to this exemption during any rolling five (5) year period.

7. Administration

- A. Maximum number of growth permits per calendar year.

1. Commencing on January 1, 2004, the maximum number of growth permits issued between January 1st and December 31st each year shall be fifteen(15) plus any growth permit available at the end of the previous calendar year.

For the calendar year 2003 only, from March 8, 2003 to December 31, 2003, the maximum number of growth permits shall be Fifteen (15) minus the number of building permits issued during the calendar year 2003 before effective date of this Ordinance March 8, 2003.

2. Until October 1st of each year, no more than 4 growth permits shall be issued for lots Within subdivisions; and no more than 15 growth permits shall be issued for lots not within subdivisions.

Between October 1st and December 31st of each year, any growth permits not yet issued, up to the maximum number established by subparagraph 1 above, may be issued without regard to whether the lot for which application is made is "within a subdivision" or not within a subdivision.

3. During each calendar year no more than 4 growth permits shall be issued for lots within any one subdivision.

B. A growth permit application must be completed and signed by a record owner of the lot for which the growth permit is sought, on a Growth Permit Application form provided by the Code Enforcement Officer.

2. The growth permit application shall be accompanied by:

A. A nonrefundable application fee as specified in the Schedule of License, Permit and Application fees established by order of the Town Selectmen, which shall be credited toward the building permit fee if the growth permit is replaced by a building permit under Section 7(C)(2) below;

B. A deed or other instrument establishing the applicants ownership interest in the property; and

C. either a copy of the completed subsurface wastewater disposal system application (Form HHE-200) for the lot for which the growth permit is sought or evidence that the lot will be served by public sewer.

3. The growth permit application shall be submitted to the Code Enforcement Officer either by mail or by hand during normal business hours at the Town Office. The Code Enforcement Officer shall endorse each application with the date and time of receipt. In the event two(2) or more growth permit applications are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.

4. The Code Enforcement Officer shall review growth permit applications for completeness and accuracy in the order in which they are received. If an application is incomplete, the Code Enforcement Officer shall notify the applicant of the additional information or material needed to complete the application and shall resume review of the application only when such additional information or materials are provided. Once the Code Enforcement Officer determines that an application is complete, he or she shall approve the application as complete, endorsing the date and time of such approval on the application.

5. A separate growth permit application is required for each dwelling unit.

6. No growth permit application shall be accepted from an applicant who already holds the maximum number of permits allowed under this Article, subsection D. If such an application is submitted, the application will be rejected and the Code Enforcement Officer shall notify the applicant of such.

7. No growth permit application shall be accepted by the Code Enforcement Officer within six(6) months of the commencement of any construction on the lot which was not authorized by a building permit at the time that such construction commenced.

8. The Code Enforcement Officer shall ensure that the issuance, or the reissuance (after surrender or expiration) of any growth permit, shall be part of a public process which is perceived to be fair by members of the public. To that end, no growth permit shall be issued

except at the time and place described in a public notice published at least seven(7) days prior to the date that such permits are made available to the public. To ensure that permits are issued first come, first served basis, the Code Enforcement Officer shall accept applications only from persons in the order that they first appear, or the order in which they are queued at the front entrance to said appointed place at the appointed time.

C. Issuance procedure

1) Growth permits shall be issued first- come, first-served basis according to the dates and times the applications are approved as complete by the Code Enforcement Officer under section 7 (B) (4) above. If a growth permits available under section 7 (A) on the date the Code Enforcement Officer approves an application as complete, the Code Enforcement Officer shall issue the growth permit by endorsing the date of issuance on the application and mailing a copy to the applicant at the address provided by the applicant on the application. If no growth permit is available at the time the application is approved as complete, the application shall remain pending, and as growth permits subsequently become available, the Code Enforcement Officer shall issue permit in the order in which the applications were approved as complete, mailing the issued permits to the applicants as provided above.

2) Once issued, a growth permit must be replaced by a building permit for construction, placement or creation of a dwelling on the specific lot for which the growth permit was issued, no later than 90 days after date of issuance. A growth permit may not be extended or renewed beyond 90 days after issuance. A growth permit which is not replaced by a building permit within such 90 day period shall automatically expire. If a growth permit expires, a subsequent application for a growth permit on the same lot shall be processed and ranked as a new application pursuant to Section 7 (B) above. Expired growth permits shall not be counted in determining the maximum number of permits which may be issued during any calendar year.

3)At the end of each calendar year: (a) if the number of approved applications for growth permits exceeds the number of permits available for issuance, such approved applications shall remain pending into the next calendar year and shall retain their ranking according to the order in which they were approved as complete; (b)if the number of available growth permits exceeds the number of growth permits issued, such unissued growth permits shall be added to the maximum number of growth permits available during the next calendar year.

4) At any time prior to the issuance of a building permit or the expiration of a growth permit, the holder of a growth permit may surrender the permit and receive a refund of 50% the growth permit fee. Surrendered growth permits shall not be counted. in determining the maximum number of permits which may be issued during any calendar year.

5) At any time after an application for a growth permit is made and prior to the issuance of a growth permit; the applicant may withdraw the application and receive a refund of 75% the growth permit fee.

D. Applicant maximums

There will be a limit of three (3) growth permits issued per applicant per calendar year. No applicant may hold more than two (2) unused growth permits at anyone time. For the purposes of this section, a growth permit shall be considered "used" when the Code Enforcement Officer has issued a certificate of occupancy for the dwelling unit for which it was issued.

E. Transferability

Growth permits are issued only for a specific lot identified in the growth permit application. A growth permit may be transferred to a new owner of the lot; provided notice of the transfer of ownership is given in writing to the Code Enforcement Officer before the growth permit is replaced by a building permit and transfer does not result in anyone person having more growth permits than allowed under this Article. Transfer of ownership does not change the date of the issuance or the ranking of an issued growth permit. An application for a growth permit is not transferable.

8. Periodic review of Ordinance

Prior to December 31, 2005 the Town Selectmen shall conduct a review of this Ordinance to evaluate whether the rate of residential growth remains constant with the Town's ability to absorb the growth, and shall determine whether the number of growth permits available under this . Ordinance should . be adjusted by amendment to this Ordinance: The Town Selectman may, at their discretion, seek assistance or advice from the Planning Board, and/or hold public hearings, in connection with such review. If the Town Selectmen do not conduct such review, this Ordinance shall expire December 31,2005. If the Town Selectmen conduct such review, this Ordinance shall continue in effect, reviewing this Ordinance prior to December 31st of each year or this Ordinance shall expire on December 31st of that year. This Ordinance may only be amended at the annual Town meeting.

9. Violation, Penalties and Enforcement

Any person who constructs, creates or places a dwelling unit within the Town of Baldwin without a growth permit required by this Ordinance or who owns or occupies a dwelling unit constructed, created or placed within the Town of Baldwin without a growth permit required by this Ordinance commits a civil violation and is subject to the fines, penalties and remedies provided in 30-A M.R.S.A. section 4452. Each day a violation continues to exist after notice of the violation constitutes a separate violation. This Ordinance shall be enforced by the Town of Baldwin Code Enforcement Officer in the manner provided for enforcement of violations of the Land Use Ordinance of the Town of Baldwin as is set forth in Article 4.4 of such Land Use Ordinance.

10. Appeals

An applicant for a growth permit who is adversely affected by a decision or action of the Code Enforcement Officer in the administration of this Ordinance may appeal to the Baldwin Board of Appeals under provisions governing administrative appeals under Articles 7.2 and 7.3 of the Land Use Ordinance of the Town of Baldwin.

Town of Baldwin
Municipal Employees Personnel Ordinance
Adopted 31 August 2017

Town of Baldwin Municipal Employees Personnel Rules & Regulations	
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Town of Baldwin Municipal Employees Personnel Rules & Regulations

Background

1. The Board of Selectmen, Treasurer/Clerk/Tax Collector, the Road Commissioner, and the Fire Chief adopt this Ordinance for use in the administration of the personnel activities of the employees of the Town of Baldwin.

2. The Town of Baldwin is an equal opportunity employer. As such, the Town policy is to seek and employ qualified personnel in all operations; to provide equal opportunities for advancement including upgrading, promotion and training, and to administer these activities in a manner which does not discriminate against any person because of race, color, gender, age, religion, ethnic or national origin, ancestry or physical/mental disability, or any other protected class as established by State or Federal Law. Any references to masculine gender as used in this document are intended to include both male and female. First preference will be given to citizens of the Town of Baldwin, all other factors being equal in hiring decisions.

3. The Board of Selectmen, in consultation with the other Department heads, may propose changes to this Ordinance. Any changes, including those arising from the town's legislative body, require approval by the legislative body. Appointing and selection officials will notify their employees of any change.

4. The general purpose of this ordinance is to establish a uniform, fair, and impartial system of personnel administration that meets the needs of the Town of Baldwin. This ordinance includes policies and procedures for employee hiring and advancement, fringe benefits, retirement, discipline and other related activities.

5. Applicability. Unless stated otherwise, the policies in this document apply to all personnel employed by the Town of Baldwin who are paid a wage, salary, or stipend, either elected or appointed.

6. Severability. If any provision of these policies or the application to any person or circumstances is held invalid, this invalidity does not affect other provisions or applications of these policies which can be given effect without the invalid provision or application and for this purpose, the provisions of these Policies are severable.

Policy:

7. Responsibility. The selection of persons for employment shall be the respective responsibility of the Board of Selectmen, the Town Treasurer/Tax Collector/Town Clerk, Fire Chief, or the Road Commissioner. The implementation of the policies laid out in this ordinance is the responsibility of the selecting or appointing official.

8. Employee Classifications

A. Regular Full-time. Paid hourly. A regular full-time position, shall be year-round in nature, the incumbent shall be required to work the standard work week of their particular department (at least 32 hours per week.) He/she is subject to all personnel

policies and is entitled to receive all benefits such as vacation leave, sick leave, holiday pay, and Town subsidized health insurance.

B. Regular Part-time. Paid hourly. An employee in this classification is scheduled to work less than a full-time work week (at least 20 but less than 32, hours per week), on a continuing basis throughout the year. The employee is subject to all personnel policies. Regular part-time employees are not eligible for benefits such as vacation leave, sick leave, and holiday pay. The employee may be eligible for Town subsidized health insurance if he/she works an average of 30 hours per week.

C. Temporary Employees. Paid hourly. Temporary employees work on a non-permanent or seasonal basis, usually within a limited time frame, or work less than 20 hours per week on a scheduled basis. Temporary employees are not eligible for benefits such as vacation leave, sick leave, holiday pay, and Town subsidized health insurance.

D. On-call Employees. Paid hourly. Fire and rescue emergency responders are on-call employees. On-call employees are not eligible for benefits such as vacation leave, sick leave, holiday pay, retirement benefits, and Town subsidized health insurance.

E. Exempt Employees. Exempt Employees are Salaried Employees with a full time work schedule (32 or more hours per week) working in a professional, executive, or administrative capacity that earn a minimum salary at or above the Maine Labor Law minimum or the Federal minimum for exempt employees whichever is higher. The Town of Baldwin does not currently have "Exempt Employees." Exempt employees are entitled to benefits such as vacation leave, sick leave, holiday pay, and health insurance.

F. Members of the Board of Selectmen are paid an annual stipend as voted in the Annual Town Meeting. Members of the Board of Selectmen are not eligible for benefits such as vacation leave, sick leave, holiday pay, and Town subsidized health insurance. Elected officials paid an hourly wage are eligible for benefits such as vacation leave, sick leave, holiday pay, and Town subsidized health insurance if they meet the criteria of a Regular Employee.

G. The Fire Chief is appointed by the Board of Selectmen for a three year term. The Assistant Fire Chief is appointed by the Fire Chief. Station Fire Chiefs for the three district fire stations are elected by district station members. The Fire Department personnel are not eligible for benefits such as vacation leave, sick leave, holiday pay, and Town subsidized health insurance.

9. Compensation

A. The Town is committed to providing an equitable and competitive compensation package that will attract and retain well-qualified employees. The equitable nature of Town wage rates will be judged using several factors including but not limited to comparison with pay rates reported in the M M A annual pay survey.

B. The Town budget, which includes compensation for appointed employees, is adopted at Town Meeting each year. Fair and equitable employee compensation is one of several budget priorities.

C. Employees shall receive a written performance review from their supervisor. The performance review may be used as a determining factor in consideration of compensation increases.

D. Compensation for elected officials is set by voters at the Town Meeting.

E. Compensation for the Town Fire Chief and Assistant Chiefs is set by voters at the Town Meeting. Fire Chief, Assistant Fire Chief, and Station Chief's annual stipends are recommended by the Board of Selectmen and voted on at the town meeting.

F. Volunteer Firefighters are paid on an hourly basis for their training and fire response time based on a pay schedule managed by the Town Fire Chief. The schedule takes into account the qualifications of the individual firefighters. Firefighters are paid once a year in December for their time for the previous 12 months. The Town Fire Chief is responsible for maintaining an accurate record of firefighter's hours and certifying the December request for payment.

10. Application and Recruitment.

A. All applicants or appointments must submit a written application for employment on form provided by the Town of Baldwin.

Recruitment. The character of the recruitment and selection process for all town positions will vary with the position. Within the limits of time during which a position must be filled, there shall be as wide a search for qualified candidates as is practical. This may include advertising, open competitive examination, contact with state and other employment offices and contact with special sources of information. It shall be the duty of the Board of Selectmen or the responsible appointing/selecting official to seek out the most qualified employees for the Town.

B. Citizens of Baldwin will be given first preference for positions, all factors being equal among the candidates.

C. Physical Exams. After a position of employment is offered, the Town may require a physical exam for Public Works employees by a physician of the Town's choice at the expense of the Town.

D. Oath of Office. All town officials elected or appointed, must swear an oath of office. MRS title 30-A Chapter 123, section 2604 defines "official" to mean any elected or appointed member of a municipal or county government. For Baldwin, these officials include Selectmen, Treasurer/Clerk/Tax Collector and his or her appointed deputies, the Road Commissioner, ACO, CEO, EMA Coordinator, School Board members, Planning Board members, Appeals Board members, Town Administrative Assistant, Fire Chief, and Assistant Fire Chief.

11. Probation.

A. All employees are considered probationary for the first 180 days of employment, commencing on their hire date. The probationary period shall be considered an extension of the selection process. Probationary employees may be removed at any time during the probationary period without cause and without right to file a grievance. The object of the probationary period is to determine the ability of the employee to adhere to required work standards through a 180-day period of observation and review by the selecting official. During the probationary period, the department head, with the approval of the Board of Selectmen, may remove an employee who is unable or unwilling to perform the duties of the position satisfactorily or whose work habits and dependability did not merit his/her continuance of service.

B. After the first 180 days, the employee shall receive a formal written evaluation by his/her supervisor which will be delivered to the Board of Selectmen. A successful evaluation will result in the employee being transferred to regular status. Employees are hired on an "at will" basis. This means an employee can be fired or released from the

workforce at any time for any reason or for no reason at all. Each worker is hired for no specific term. The employer reserves the right to terminate the employment relationship at any time.

12. Promotions

A. The Town of Baldwin has a limited number of employees with the primary or supervisory positions being elected. However, appointed or selected town employees will be given maximum opportunity for advancement or more favorable scheduled hours within the needs of the Town. It is recognized that the good of the community may require that a vacancy be filled from outside the ranks of employees of the Town of Baldwin.

B. Current Town employees will be given first consideration in filling a vacancy if the responsibilities of the position are commensurate with the employee's current position or qualifications as determined by a competitive hiring process.

C. Town employees will be given preference in a selection for promotion if they are deemed by the selecting official to be equally qualified with other applicants.

13. Training and Education. Both the Town and its employees profit from the provisions of educational training opportunities reasonably related to the employee's position for which provisions have been made in the budget.

A. It shall be the responsibility of office or department heads to provide town employees reasonable opportunities for in-service training and attendance at schools or conferences that will improve quality of performance and bring about more efficient and effective operations.

B. It is the employee's responsibility to seek out and apply for job related training opportunities that meet their career goals. The town will reimburse the employee for such training if it also meets town training needs and is related to the employee's current position.

C. Employees may apply for job-related courses or training. Most training attended by Town employees is hosted by M M A. Upon registration with M M A, the town is automatically billed for M M A charges. For any other related costs of attendance, the Town will reimburse employees per diem and mileage upon completion of the course. For pre-approved training which is paid for in advance by the employee, the employee will be reimbursed 100% of the tuition cost only upon satisfactory completion of the pre-approved course.

D. Advance conference or training fees may be paid by the Town Treasurer only with pre-approval in a warrant by the Board of Selectmen. Reimbursement of training fees and related costs must be applied for within two (2) pay period of completion of the training.

E. To insure proper budgeting for tuition and related training reimbursement, office and department heads should work with their employees to determine their training needs and budget for it each year.

14. Reimbursement of Expenses.

A. Employees shall be reimbursed for reasonable and necessary expenses incurred while carrying out approved, official Town business. Maximum reimbursement shall be made in accordance with those published annually by the IRS for per diem and

formileage upon submission of a standard expense sheet, signed by the employee's office or department head.

B. Mileage reimbursement shall not apply to travel between employee's home and the Town office for regularly scheduled town meetings or regularly scheduled work.

C. Requests for reimbursement of, parking fees, excess lodging, and registration fees must be accompanied by receipts of same whenever possible.

D. Requests for reimbursement of expenses must be received no later than two pay periods after the expense was incurred.

15. Resignations

A. An employee may resign from regular Town employment in "Good Standing." "Good standing" shall mean the submission of a written notice 14 calendar days in advance of the last day of actual work. Failure of a resigning employee to comply with this rule may be cause for denying future employment with the Town. The Board of Selectmen may permit a shorter period of notice if extenuating circumstances exist.

B. The resignation should be accompanied by a statement by the office or department head as to the resigning employee's service performance and pertinent information concerning the cause of resignation.

C. Employees are offered the opportunity for a voluntary exit interview in which he/she may discuss working conditions and the reasons for their resignation.

D. The effective date of the employee's termination with the Town is considered to be the last day actually worked.

E. Upon separation from service, the Town shall pay all wages owed as well as earned and/or pro-rated vacation pay due to the employee, if any, on the next regular payday.

16. Work schedules

A. Normal Work Hours. Unless specifically spelled out in a Town Ordinance or Town Meeting Warrant article, the appointing or selecting official shall be responsible for establishing the work week/work day schedule for all categories of employees within their department or office.

B. The hours of work, the starting and quitting time, and lunch periods will be established in writing within each office or department and a copy provided the Board of Selectmen. The hours of work, the starting and quitting time, and/or the lunch periods may be changed provided they meet the requirements of this ordinance. It is the responsibility of each department or office head to ensure that the employee's work hours are adhered to.

C. It is the policy of the Town of Baldwin to only pay for hours worked except as noted below. Any employee working a schedule that includes six consecutive hours will be allowed a paid lunch break of 30 minutes during the six-hour period, except in cases of emergency. The Clerk/Treasurer/Tax Collector's office will remain open during lunch breaks with at least one person on duty.

D. Normal Salaried Work Week for Exempt Positions. The normal work week for exempt salaried positions will vary with the assigned workload within a range of 32-40 hours per week. Hours worked by salaried employees will be managed and recorded

by the Board of Selectmen. The Town of Baldwin does not currently have exempt employees.

17. Time Sheets.

A . All hourly paid town employees shall submit signed timesheets at the end of each pay period to their department or office head, and prior to being paid.

B . Office or department heads shall certify each of their department's timesheets prior to being submitted to the Town Treasurer.

C . Unless specifically approved by the Board of Selectmen, timesheets must be submitted NLT one pay period after the work has been performed.

D . The Salary warrant along with the associated timesheets shall be present for review /approval by the Board of Selectmen prior to employees being paid by the Town Treasurer.

18. Overtime.

A . It is the obligation of those in charge of setting work schedules, as responsible managers of taxpayer funds, to keep the amount of overtime work to the minimum necessary to provide efficient and timely service to the Town. Use of overtime should be the exception rather than the rule.

B . It is also the obligation of all employees to accept a reasonable amount of overtime work as shall, from time to time, be required to allow for coverage of illness, vacation schedules, and continuance of Town services when work demands so dictate. Department and office heads shall make every responsible effort to distribute overtime equally among employees and their respective departments. The rules for charging/awarding overtime are as follows:

1. Any time actually worked in excess of forty (40) hours in one week shall be compensated for by overtime pay except for firefighters who shall be paid overtime after 42 hours per week.

2. Sick leave, holidays, vacation time and other forms of paid leave shall not be counted as time worked for determining overtime. This does not apply to "on call" or part-time employees.

3. Town employees are not authorized to work more than 16 hours during any 24 hour period.

4. Any time worked on a holiday, regardless of what occurs during the rest of the regular work week, shall be compensated for at a time and one-half rate, in addition to the employee's regular, straight holiday pay.

5. When an hourly paid employee has left work after the regular work day and then is called back into work, he/she shall be paid a minimum of two hours of pay. If and when time worked for each particular call-in exceeds two hours, he/she shall be paid for the actual hours worked.

19. Disability Accommodation. The Town is committed to complying with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act, and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis. The Town will not discriminate against any qualified employees or applicants because they are related to or associated with a person with a disability. Furthermore, the Town is committed to taking

all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and the Maine Human Rights Act.

20. Inclement Weather/Utility Failure

A. Inclement Weather. Municipal facilities are made available with public funds to provide services to the public who are our customers. As such, it is the intent of the Town to remain open and maintain regular operating hours during most storm events. Employees are advised to be prepared for Maine weather events and are expected to report to work during storm events including most snow storms. In the event of a particularly significant storm event, the Board of Selectmen is authorized to use its judgment and may close appropriate facilities.

B. When the Board of Selectmen closes facilities because of storm event employees at that facility will be paid their regular wages for the remaining balance of the workday.

C. Employees who become concerned with travel conditions may request permission from their supervisor to leave work and the supervisor may grant or deny permission subject to the following:

- a. It is the responsibility of the supervisor to ensure that sufficient personnel remain at work to provide adequate services to the public and may therefore limit the number of employees who may leave.

- b. Employees who leave work pursuant to this paragraph must use accrued vacation time or unpaid leave for the balance of their regular workday regardless of whether the office is later closed or not.

D. Utility Failure/Emergency Event. In the event of an inability to operate because of a utility failure, emergency event or some other condition, the Board of Selectmen may establish temporary facilities at some other location or may declare appropriate facilities temporarily closed. In instances where facilities are closed and employees are asked to not report to work or to depart work, employees will receive their regular wages during the closure.

21. Holidays

A. Holiday pay is to be considered a normal day's wages.

B. The Town of Baldwin offers the following eleven (11) paid holidays to all regular full-time Town employees: These holidays coincide with Maine state holidays and will be observed on the same day as the state government. Generally, if a holiday falls on a Sunday, the following Monday is considered the holiday. If the holiday falls on a Saturday, the preceding Friday is considered the holiday for employees who do not normally work on Saturday, unless otherwise regulated by law.

- a. New Year's Day
- b. Martin Luther King Day
- c. President's Day
- d. Patriot's Day
- e. Memorial Day
- f. Independence Day
- g. Labor Day
- h. Columbus Day
- i. Veteran's Day

- j. Thanksgiving
- k. Christmas Day

C. Holiday pay is equal to the number of hours an hourly-paid employee would normally be scheduled to work for that day of the week not counting overtime hours. (For example, if an employee normally works 8 hours per day, his/her holiday pay equals 8 paid hours. If an employee normally works 7 hours per day, his/her holiday pay equals 7 paid hours, etc.)

D. A person on a leave of absence without pay shall not be entitled to holiday pay.

22. Paid Vacation

A. Previously, elected official's paid vacation time was decided by warrant at the annual Town Meeting. With the implementation of this policy, all Baldwin Employees will be awarded benefits as spelled out herein.

B. For appointed employees, benefits begin accruing upon being hired but are only awarded after completion of their six-month probationary period.

C. A break in employment starts the employee at 0 years of service again.

D. Vacation time will be awarded using the following schedule.

- a. 0-1 years of service, 5 days/year accruing at .1923/pay period.
- b. 2-5 years of service, 10 days/year accruing at .3846/pay period.
- c. 6-10 years of service, 15 days/year accruing at .5769/pay period.
- d. 11 years of service and above, 20 days/year accruing at .7692/pay period.

E. Time lost for the following reasons will be considered as credited time worked for purposes of computing vacation benefits:

- a. Workers compensation injury
- b. Military training (2 weeks)
- c. Jury duty
- d. Sick leave

23. Scheduling and pre-approval of vacation leave.

A. Vacations will be scheduled at such time or times as shall be mutually agreeable to the employees and their supervisors. Vacation leave requires pre-approval by the department head.

B. Due consideration will be given to an employee's seniority (highest years accrued with un-interrupted service) in regard to scheduling vacations.

C. Vacation leave will ordinarily be taken in blocks of one work day or more, but leave or vacations for a lesser period may be permitted by the department head.

D. In case a holiday falls within the vacation period, the employee will receive holiday leave compensation for that day.

E. Employees must take the paid vacation awarded them within the fiscal year that it is awarded (after January 1 and before December 31). Employees may not carry over vacation time from one year to the next and vacation time not taken in the year awarded shall be lost.

F. The town has no legal obligation to retroactively compensate employees for past vacation time not used.

G. Employees who leave employment within their first year of employment will forfeit all earned vacation leave.

24. Paid Sick Leave

A. Regular, full-time employees earn 40 hours (eight (5), eight (8) hour days) of paid sick leave per year (accrued at 1.5385 hours/pay period). Employees may accumulate no more than 80 hours. Sick leave over 80 hours is not accredited to the employee.

B. Employees may not donate sick leave to other Town of Baldwin employees.

C. Sick leave may be granted for any of the following reasons:

a. The employee's personal illness or injury of an incapacitating nature sufficient to justify absence from work.

b. Personal medical or dental appointments for the employee that cannot be scheduled during times other than working hours.

c. The illness or medical or dental appointments for an immediate family member of the employee.

D. An employee is required to contact his/her supervisor or his/her designee prior to the start of the employee's regularly scheduled workday.

E. In the case of an emergency situation, i.e., hospitalization, the employee will make every effort to notify the supervisor or designee as soon as possible. Failure to report within this time frame will result in disallowance of sick pay for that day.

F. An employee is required to call the supervisor or his/her designee each day of the absence unless previous arrangements have been made between the employee and the supervisor. In the event that an employee fails to call the supervisor or designee the day of the absence, and the day of the absence falls before a holiday, the employee will not receive holiday pay for that holiday period.

G. The department or office head may, after 3 days, as a condition precedent to continuance of sick pay, require a certificate of a qualified physician certifying the condition of the employee to be such as to justify the continued absence from employment.

H. Probationary employees shall not be entitled to paid sick leave until they have completed the 180 day probationary employment. At the completion of the probationary period, cumulative sick leave days shall be computed from the original date of employment.

I. After any extended sick leave it may be required by the office or department head that the absent employee obtain a physician's statement, at his/her own cost, that he/she is physically capable to return to normal duty. It shall be the responsibility of the department head to insure that this requirement is appropriately followed before the employee is allowed to return to his/her regular duties.

J. Unused accumulated sick leave will be forfeited at the time of employment separation.

25. Family Medical Leave. The Town of Baldwin does not provide Family Medical Leave for employees.

26. Leave of Absence without Pay.

A . An employee of regular standing may be granted an extended leave of absence without pay by the Board of Selectmen on recommendation of the department head when it is in the best interest of the Town to grant the leave, with such leave not to exceed 30 days in length. The granting of the leave shall protect the employee's existing continuous service for the leave period, but vacation or sick leave shall not accrue during the absence, nor will the employee receive pay for municipal holidays.

B . An employee may also take leave without pay on an intermittent basis or by working a reduced schedule with prior written approval by the department head. This may impact an employee's eligibility for Town sponsored health care insurance if average weekly hours falls below 30.

27. Military Leave

A . Full-time regular employees who are members of the organized military reserves and who are required to perform field duty will be granted a maximum of two weeks reserve service leave in addition to normal vacation leave per fiscal year. The employee must request Military Leave from the department head two pay periods in advance of the leave.

B . For any such period of reserve service leave, the Town will pay the difference (if any) between service pay and the employee's regular pay.

28. Jury Duty

A . An employee will be granted special leave, as required, for jury duty or performance of other civic duty requiring appearance in court or before another public body. The employee must notify their department head in advance by providing a copy of the jury duty summons.

B . The employee shall be paid the difference (if any) in compensation between the amount received from the rendering of such service and his/her regular rate of pay if the service occurs during a work day.

C . Time paid for Jury Service shall not be counted as time worked for purposes of overtime computation.

D . These provisions shall apply only to employees who have completed their probation period.

29. Bereavement leave. Special leave with pay shall be granted to regular full-time employees for up to three days for absence caused by the death of a member of the immediate family. "Immediate family" means parent, spouse, brother, sister, child, stepchild, grandmother, grandfather, and also includes the father, mother, brothers and sisters of the spouse.

30. All Leave Utilized.

A . When all leave, including sick and vacation leave, has been utilized by an employee that is absent from regularly scheduled work, salary payments to the employee shall cease immediately.

B . The Town will no longer pay any amount toward medical insurance. The employee will then have the opportunity to continue the benefits by paying the cost themselves.

31. Compensatory Time

A. With approval of the supervisor, an employee who earns overtime may be granted compensatory time in lieu of overtime pay. One hour of compensatory time granted for one hour of overtime.

B. An employee may accumulate up to 40 hours of compensatory time (comp time) after which all overtime shall be paid as wages. In order to take comp time, an employee must make a request at least one (1) day in advance and must receive written permission from the department or office head.

C. Exempt employees are not eligible for comp time.

32. Health Insurance. The Town of Baldwin provides subsidized health insurance to eligible employees via enrollment in a group plan offered by the Maine Municipal Employees Health Trust. Interested employees shall be given a brochure by the appointing official upon being appointed. It provides detailed information about the program and the options available to eligible employees.

A. Regular and regular part-time employees who work 30 or more hours per week are eligible for health insurance coverage as provided through the Town's health insurance provider.

B. The Town (employer) pays 80% of the cost of the premium for the single employee. The employee is responsible for the remainder of the cost.

C. Regular Part-Time employees who do not meet the 30 hours per week requirement for Town subsidized coverage are eligible to participate in the program without Town subsidy.

D. There is a 60 day waiting period after an employee is appointed before an employee is eligible to enroll in the Town provided health care program. An employee's application for health insurance must be received by the Health Trust before the end of the waiting period for coverage to begin on the first day of eligibility. If the application is received no later than 60 days after the end of the waiting period, coverage will begin on the first day of the calendar month in which the Health Trust receives the application. (Other plan restrictions on the starting date of coverage may apply). If an application is received by the Health Trust after that, it is considered a late enrollment and the enrollee must wait until the annual enrollment period in December to apply for coverage. There are also several qualifying events that would enable an employee to apply for coverage at any time. Qualifying events are as follows:

- a. Marriage.
- b. Birth of a child.
- c. Adoption of a child.
- d. Placement of a child for adoption within an employee's home.

The Health Trust must receive proof of the event along with the original application to enroll within 60 days of the qualifying event. An employee may also enroll within 60 days after the loss of other health insurance coverage.

E. All eligible participants may purchase Supplemental and Dependent health coverage at their expense. Employees may also purchase Dental insurance at their own expense. See the plan brochure for more details.

F. Regular Part-Time Employees who were not previously eligible to participate in the plan may do so if his/her hours are changed to at least 30 hours average per week.

The date of increase in hours is considered the date of hire for purposes of applying for participation in the plan.

G. Newly appointed eligible employees who decline to enroll in the Health Trust will be requested to fill out the Group Medical Plan Election for Enrollment/Change form, sign and date the Election Not to Enroll section.

H. Other coverage available to Regular Full Time and Regular Part-Time employees at their own expense.

a. Basic Life Insurance coverage equal to one times an active employee's annual salary (rounded to the next higher \$1,000; to a maximum of \$100,000) is provided to all employees participating in a Health Trust Medical Plan, at no additional cost to employee or employer, provided the Employee enrolls when first eligible or following a qualifying event, or during the annual Health open enrollment period (applications received during the annual open enrollment period must be accompanied by a health enrollment application). Eligible elected or appointed municipal officials receive a minimum benefit of \$5,000, and a maximum benefit of \$50,000. Any employee who is eligible to participate in the Health Trust Medical Plan, but does not elect coverage because he/she is covered under another medical plan may participate in the Basic Life Plan for a nominal premium amount. Those who participate in the Life Insurance Plan are eligible to participate in any other Health Trust life insurance supplemental and dependant plans.

b. The Health Trust has an Income Protection Plan, a Long Term Disability Plan, and a Vision Enrollment plan that are available to eligible employees. See the plan brochure for current details.

c. Retiring employees who meet eligibility requirements may continue coverage with the plan(s) at their own expense. See the plan brochure for details.

J. Employees who are enrolled in a Health Trust program have access to their Employee Assistance Program (EAP). They can offer information and advice to help solve a wide range of problems including relationship and family concerns, anxiety, depression, alcohol and drug abuse, stress, grief, financial, or legal issues. See the attached flyer for more information.

33. Retirement/ Social Security. Any person who becomes an employee of the town must participate in the Social Security program as a condition of employment.

34. Performance Evaluations

A. All employees will be given a written position description upon beginning employment with the town. Any employee appointed to a regular position shall be considered on probationary status for the first 180 days of employment. After 180 days, the employee shall receive a formal written evaluation by his/her supervisor on a standardized evaluation form. A successful evaluation will result in being transferred to a regular status after 180 days.

B. After successful completion of the probationary period and transfer to regular status, employee's performance will be reviewed and documented on a standard evaluation form, by their supervisors annually, at a minimum.

C. A copy of all employee reviews shall be kept in the employee's personnel file.

35. Personnel Records

A. Personnel records shall be maintained for each employee of the Town and shall be kept in a locked file cabinet in the Town Clerk's office.

B. Any employee may review his/her files in the presence of a member of the Board of Selectmen or his/her department head between the hours of 8:00 a.m. and 4:00 p.m., Tuesday through Friday. So as not to cause inconvenience the employee shall set up an appointment with a member of the Board of Selectmen or his/her department head for such a review in advance.

36. Employee Conduct

A. All employees are expected and required to treat the public and their coworkers with promptness, patience, courtesy, and respect. Employees are expected to conduct themselves at all times in a manner that will bring no discredit to their department or to the Town of Baldwin.

37. Attendance and Lateness

A. Employees shall be at their respective places of work in accordance with their work schedule. In the event of necessary absence because of illness or any other cause, it is the responsibility of the employee to see that his/her office or department head is advised of the reason for absence prior to the start of the work day and on each subsequent day so he/she may adjust the daily schedule of work as necessary.

B. Excessive tardiness or unapproved absences may be cause for disciplinary action and/or termination.

38. Disciplinary Actions

A. Whenever, in the supervisor's judgment, hourly employee performance, attitude, work habits, or personal conduct at any time falls below a suitable level, the supervisor shall inform the employee promptly and specifically of such lapses and give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. Disciplinary action steps may be skipped if infractions are severe. Disciplinary action shall consist of the following:

- a. Verbal warning, documented in writing
- b. Written warning
- c. Suspension of one to five days
- d. Dismissal

B. The office or department head may demote, suspend without pay for not more than ten (10) working days, or permanently dismiss any municipal employee whose work performance and/or misconduct justifies such action.

C. Notice of disciplinary action against an employee must be in writing and the employee must receive such notice not later than seven (7) days before its effective date.

D. The notice shall specify the proposed penalty and contain a statement of the evidence against the employee.

E. The employee shall be entitled to present their evidence prior to the effective date of the action.

F. All employees shall have the right to appeal any disciplinary action within five (5) working days to the Board of Selectmen. (See grievance procedure.)

39. Confidentiality Policy. During the course of their duties, employees of the Town of Baldwin often are privy to information about individuals which is sensitive and should be kept confidential. Examples include, but are not limited to, contract bids or personnel actions. Employees are expected to respect the confidential nature of such information.

40. Conflict of Interest

A. No Town employee who is authorized to make purchases shall have any pecuniary interest either directly or indirectly in any contract with the Town. (See M.R.S.A. Title 30-A § 2605)

B. Any employee who may have the appearance of a pecuniary interest either directly or indirectly shall abstain from participation in the award of the contract.

41. Gratuities

A. Town employees are prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loans, or any other item of monetary value from any person, within or outside Town employment, whose interests may be affected by the employee's performance or nonperformance of his/her official duties.

B. Acceptance of nominal gifts, such as food and refreshments in the ordinary course of business meetings, or unsolicited advertising or promotional materials such as pens, note pads, calendars, etc., is permitted.

42. Use of Town Property

A. Employees may not, directly or indirectly, use or allow the use of Town property of any kind for other than official activities.

B. Town telephones may be used for personal business only for matters of importance. Employees must pay for any personal long distance telephone calls made from Town telephones which are billed to the Town phone accounts. Exceptions to this rule must be approved by the Board of Selectmen.

43. Outside Employment & Compensation

A. Town employees may engage in outside employment. However, no employees may engage in outside employment which in any manner interferes with the proper and effective performance of the duties of their position with the Town, results in a conflict of interest, or if it is reasonable to anticipate that such employment may subject the Town to public criticism or embarrassment.

B. Regular full time and regular part time employees must inform their department supervisor of their outside employment.

C. If the department head or the Board of Selectmen determines that such outside employment is disadvantageous to the Town; they shall notify the employee in writing that the outside employment must be terminated.

D. The Town of Baldwin work requirements shall take priority over outside employment and employees shall be expected to perform their Baldwin related duties first.

E. The Town shall in no respect be liable or grant sick leave or disability leave in cases where an employee is injured or contracts an occupational illness or develops occupational disability while engaged in outside employment.

F. Any employees receiving payment from non-Town sources for services rendered during his/her normal work day and for which work day Town compensation was given, shall turn the entire amount of that compensation over to the Treasurer, Town of Baldwin.

G. Employees are expected to be fit for duty at their normal duty times. Employees who show up for work who are not fit for duty due to fatigue or other conditions resulting from outside work can be sent home without pay. Repeated occurrences can be grounds for termination.

44. Workplace Smoking Policy. In accordance with the provisions of the Workplace Smoking Act of 1985, the Town of Baldwin maintains a smoke free environment for its employees and visitors to municipal facilities. Pursuant to this Act, smoking shall be prohibited within any municipal building, within 50 feet of any municipal building and/or within 50 feet of any Town owned vehicle. All employees shall cooperate with this policy.

Office and department heads are responsible for implementing and monitoring, and enforcing no-smoking regulations. Employees who violate the no-smoking policy of the town may be subject to disciplinary action.

45. Safety Policy

A. Personal injury and property loss are needless waste and squandering of precious resources. Personal injury places the Town of Baldwin at a disadvantage in its ability to provide the necessary services and functions to its citizens. Property losses place an undue burden on limited taxpayer funds for services and general operations. As an employer, the Town of Baldwin is legally responsible to ensure that mandated safety regulations are enforced. It is the policy of the Town of Baldwin that mandated safety regulations are complied with by all town employees at all levels.

B. Mandatory safety training will be accomplished and documented by supervisors.

C. Where it is the responsibility of the Town to provide safety equipment, it shall also enforce its use. It is incumbent upon employees and their supervisors to utilization of such equipment. The Town will pay for one (1) pair of safety boots for each employee who is required to wear safety boots on the job.

D. It is the responsibility of every town employee to ensure that a safe workplace is maintained and that personal injury and property loss are minimized and/or eliminated wherever possible.

46. Grievance Procedure

A. The term "grievance" means any dispute between an employee and management concerning the effect, interpretation, application, or claim of breach or violation of Town of Baldwin Personnel Policies.

B. The employee shall initiate any grievance not later than ten (10) working days after the occurrence of the event giving rise to the grievance, or within ten (10) working days after the time such event became known to the employee, whichever is later. Mutual agreement of the parties concerned is sufficient to extend all time limits in this section.

C. Excluded from consideration of grievance are those matters pertaining to: hiring, promotion of personnel, and compensation adjustments, except that regular employees may appeal performance evaluations.

D. Every attempt should be made to resolve any dispute as soon as possible to the satisfaction of all parties.

E. Steps in the grievance procedure shall be as follows:

a. An attempt should be made for an oral agreement between the individual and his/her supervisor or department head.

b. If an oral agreement is not reached, the aggrieved may within five (5) working days file a written complaint to the supervisor or department head.

c. The department head or supervisor is required to make a determination of the merits of the complaints and give a written reply within three (5) working days.

d. If the individual is dissatisfied with the department head or supervisor's written decision, the aggrieved may within three (5) working days make a formal written appeal to the Board of Selectmen.

e. The Board of Selectmen will upon receipt of the written appeal, return a formal written decision within five (5) working days.

f. If the employee is still aggrieved, the employee shall, within five (5) working days, submit in writing to the Board of Selectmen the employee's grievance for presentation to the Board of Selectmen at their next regularly scheduled meeting. At this meeting the aggrieved employee may make a statement concerning the grievance and may be required to answer any questions that the Board poses relative to the grievance.

h. The Board of Selectmen will notify all parties involved of its decision within ten (10) working days of the final meeting.

47. Policy on Harassment

A. It is the intent of the Town of Baldwin to provide a work environment that is free from discrimination or harassment. Therefore, it is the policy of the Town that sexual and verbal harassment is unacceptable conduct in the workplace and will not be tolerated from any source, including supervisors, co-workers and non-employees. Employees are encouraged to assist the Town with its goal of maintaining a workplace free of sexual and verbal harassment and with its commitment to deal seriously with allegations of sexual and verbal harassment when they arise.

B. Sexual Harassment Is Illegal under State and Federal Law. It is illegal for any employee to sexually harass another employee, and for any supervisory employee to permit any act of sexual harassment in the workplace by anyone, whether or not an employee.

C. Definition of Sexual Harassment under State and Federal Law. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

b. submission to, or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

c. such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

D. Description of Sexual Harassment.

a. Physical assaults of a sexual nature such as: rape, sexual battery, molestation or attempts to commit these assaults; and intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another's body, or poking another employee's body.

b. Unwanted sexual advances, propositions or other sexual comments, such as: sexually-oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way that such conduct in his/her presence is unwelcome;

c. Preferential treatment or promise or preferential treatment to an employee for submitting or attempting to solicit any employee to engage in sexual activity for compensation or reward; and

d. Subjecting or threatening to subject, an employee to unwelcome sexual attention or conduct or making performance of an employee's job more difficult because of that employee's sex.

e. Sexual or discriminatory displays or publications anywhere in the organization by employees such as: Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic, or bringing into the work environment or possessing any such material to read, display or view at work.

f. Reading or otherwise publicizing in the work environment material that are in any way sexually demeaning or pornographic; and displaying signs or other material purporting to segregate an employee by sex in any area of the workplace (other than restrooms and similar semi-private lockers/changing rooms.)

E. Verbal Harassment. Any employee who believes he or she has been harassed should take the following steps to resolve the problem :

a. If an employee finds someone's behavior offensive, they may attempt to resolve the behavior by calmly but firmly informing the individual that they find the behavior offensive and requesting that the behavior cease.

b. If the harassment continues and the employee does not feel comfortable discussing the behavior with the individual(s) involved, or if they believe some employment consequence may result from his/her confrontation with the individual whose behavior offends them, they should register a complaint, preferably in writing, with their supervisor or with the Board of Selectmen. All complaints will be investigated promptly, and to the extent possible, on a confidential basis. Confirmed instances of verbal or sexual harassment will be dealt with by utilizing whatever disciplinary action the Town deems appropriate, up to and including termination.

c. If what the employee considers to be a reasonable length of time has gone by and they believe inadequate corrective action has been taken by their

supervisor, they should register their complaint in writing with the Board of Selectmen.

F. Legal Recourse through the Maine Human Rights Commission. With regard to a sexual harassment complaint, if the employee does not want to make the report internally, the employee may make the complaint to the Maine Human Rights Commission which is located at the State House Station 51, Augusta, Maine, 04333, telephone number 289-2326. Any complaint must be filed with the Commission within 180 days of the act of harassment. Once a signed charge form has been received by the Commission, an investigation will be conducted and a determination will be made by the Commission of whether or not there are reasonable grounds to believe sexual harassment occurred. If the Commission determined that sexual harassment did occur, it will attempt to resolve the situation between you and your employer through informal means. If informal means of resolution are unsuccessful, the Commission counsel may file a civil action on your behalf in Superior Court seeking appropriate relief. Maine Human Rights Act Protection Against Retaliation for Complaining about Sexual Harassment. Under the law, no employee may be punished or penalized in any way for reporting, complaining about or filing a claim concerning sexual harassment, or for testifying in any procedure brought by anyone else. This notice is provided to all employees in compliance with 26 M.R.S.A. § 807(2). If anyone has any questions regarding this notification, please ask your supervisor or contact the Board of Selectmen.

48. Worker's Compensation Insurance

A. The Town of Baldwin provides Workers' Compensation Insurance coverage for all employees. When an on-the-job accident occurs, the affected employee is to:

- a. report it immediately to his/her direct supervisor or department head and
- b. complete a "First Report of Injury" form.
- c. The department head shall notify the Board of Selectmen's office within 24 hours of the injury or on the next following work day of the accident. Preferred Provider Program.

B. The Town of Baldwin does not have a preferred provider for work-related medical services. It is requested that all employees seek medical treatment through at the closest medical facility with capability to treat the injury. If possible, employees should use their health insurance recommended health care provider. In an emergency, the employee should be transported to the nearest emergency room facility based on the judgment of the EMT's, either Northern Cumberland Memorial Hospital in Bridgton or Maine Medical Center in Portland. Maine Workers' Compensation Act of 1992, Title 39-A, M.R.S.A., Section 206 and 207 address employee and employer involvement in selection of medical treatment practitioners under the Workers' Compensation Act.

C. Medical Bills. Medical bills, when received either by the department or the employee, are to be forwarded immediately to the Board of Selectmen's office. Medical bills are paid without any waiting period.

D. For employee compensation there is a seven day waiting period. The Town remains responsible for employee compensation for the first seven days of the absence, charged to the employee's sick leave. Between eight and thirteen days the insurance carrier provides compensation. Fourteen days and over - the insurance carrier pays all

compensation retroactively to the first day of injury; then the employee pays the seven days' worth of sick leave back to the Town, who in turn, credits the sick leave back to the employee's account. Firefighters are excluded from the waiting period and must receive compensation from the date of incapacitation with the Town.

E. Transitional Work Program. In the case of an employee out of work due to a work-related injury, the Board of Selectmen's office may coordinate a transitional work program with the employee, employee's doctor and department. This program may be in the employee's department, in a different department, or spread over several departments and is designed to provide less strenuous work or modified work tasks to those employees able and approved by their doctor to return to work in some capacity with the Town. Transitional work may start at a reduced schedule with a gradual increase in hours or may include a full time work schedule as coordinated by the physician, employee, and Town. The Town reserves the right to discontinue the transitional work program or any employee's participation in this program consistent with the provisions of Workers Compensation laws. In some instances workers' compensation payments may be held up. If this occurs, the Town will continue to pay the employee by charging his/her time to sick leave (if available), of which the employee must buy back from the compensation paid by the insurance carrier. If a worker is receiving workers' compensation or disability insurance, he/she must continue to pay his/her share of life, medical, and disability insurances.

49. Infectious Disease Policy

A. Purpose: This is to establish the policy of the Town of Baldwin formulating infectious disease issues as they relate to employees and/or prospective employees including but not limited to the following diseases:

- a. AIDS,
- b. Chickenpox,
- c. Hepatitis A,
- d. Hepatitis B,
- e. Impetigo,
- f. Measles,
- g. Mumps,
- h. Pertussis, and
- i. Parasitic Infestations.

B. Any employee or volunteer who could or does come into contact with bodily fluids while performing his/her job as a Town employee or volunteer, should immediately refer to the Town of Baldwin Exposure Control Plan. Copies of the Exposure Control Plan are available in the Board of Selectmen's office, as well as in the Fire and Public Works Departments.

C. Policy: It is the policy of the Town to assure to the extent possible a safe and healthful work environment. It is also the policy of the Town to ensure full compliance with state, federal, and local requirements dealing with infectious diseases. Town procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These recommendations will be available through the employee's department head.

D. It is the obligation of all Town employees to take all reasonable precautions to protect themselves, co-workers, clients and the public from infectious diseases.

E. The Town of Baldwin shall make available to all employees and volunteers who have occupational exposure the Hepatitis B vaccination series and post exposure evaluation and follow-up. Refer to the Town of Baldwin Exposure Control Plan for detailed information on necessary procedures to follow.

F. Procedures. The Town will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform their job functions with reasonable accommodation. Employees with infectious diseases will be treated under existing policies, state, federal, and local requirements.

G. Where allowed by law, the Town retains the right to test employees for infectious diseases.

H. The Town must maintain confidentiality regarding an employee's health status, and does not have a duty to inform other individuals or organizations unless required by law.

I. Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the Board of Selectmen and to carry out his/her assigned duties if reasonable accommodations can be made.

J. Upon notification by an employee that an infectious disease diagnosis has been confirmed and is a threat to the public health, the Board of Selectmen will:

- a. Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired.

- b. Assist in the identification of reasonable accommodations to be made, if any.

- c. Assist individual departments, if necessary, in complying with this ordinance.

K. The Town will treat all occupational infectious disease injuries or illnesses according to state law.

L. The Town will provide appropriate educational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.

M. Individual departments have the right to develop protocols regarding infectious disease control provided that those protocols conform to this policy.

N. An employee cannot refuse to carry out his/her assigned duties when dealing with a co-worker or the public with an infectious disease unless that individual makes a threat of harm to the employee. Failure to adhere to this procedure will result in disciplinary action.

O. Accidental Needle Stick Procedure. Fire and rescue personnel have the highest risk of exposure to needles and syringes. Exposure to a used, contaminated needle places an employee at risk for contracting an infectious disease. In the event of an accidental puncture with a contaminated needle, the procedure is as follows:

- a. Wash the puncture site thoroughly with soap/disinfectant and water.

- b. Report the incident to your supervisor.

- c. Fire or rescue personnel must notify the medical facility receiving the patient of the incident.

- d. Complete Incident and/or Workers Compensation forms.

- e. Establish your potential exposure risk to infectious diseases.

- f. Notify your department head to establish your: (1) tetanus status, (2) Hepatitis B status, and (3) HIV exposure.
 - g. Seek further medical attention if necessary.
- P. Procedure for Exposure to AIDS Infection. If a Town employee is exposed to the blood or body fluid of a known or highly suspected AIDS-infected person:
- a. Wash the exposed areas thoroughly with soap and water.
 - b. Clean any spills with a one (1) part bleach to ten (10) parts water solution.
 - c. Report the incident to your supervisor.
 - d. Complete the Incident and Workers Compensation forms.
 - e. Notify your department head as soon as possible to schedule an appointment for a voluntary blood test. The blood test will be drawn within two weeks of the incident, six months later, and nine months later. The blood test is sent to the Maine Public Health Division in Augusta. Results are received approximately one week later. You will be notified of the test results. If all three specimens are negative, you are considered not to be infected. Counseling occurs with each visitor when requested, and is also available to family members and co-workers. Emotional counseling is available through a counselor of the employee's choice and will be provided by the Town of Baldwin through the Maine Municipal Employees Health Trust.
 - f. Strict confidence will be maintained in all incidences unless appropriate medical and/or information releases have been obtained.

50. Alcohol & Drug Use and Abuse. The possession, sale, or use of alcohol, marijuana, or illegal drugs on the employer's premises is strictly prohibited and is grounds for immediate dismissal. If an employee is unable to effectively perform his/her duties or causes disruptions in the workplace due to the influence of drugs or alcohol, disciplinary action may be taken. Pursuant to Public Law 100-690 Title V, Subtitle D, the Town of Baldwin has established the following policy:

A. The unlawful manufacture, distribution, dispensing, possession, or use of alcohol, marijuana, or a controlled substance is prohibited in the Town of Baldwin workplace.

B. As a condition of employment with the Town of Baldwin, all employees will abide by the terms of the policy and notify their supervisor or the Board of Selectmen of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

C. The Town of Baldwin, within 30 days of receiving notice, with respect to any employee who is so convicted, will take one of the following actions:

- a. Taking appropriate personnel action against such an employee up to and including discharge;
- b. or requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

51. Video Display Terminal Training. The Town of Baldwin is required by a Maine training law enacted on July 1, 1989, and amended on July 17, 1991, to explain or

describe the proper use of computer terminals and the protective measures that operators of VDTs should take to avoid or minimize symptoms (i.e., carpal tunnel syndrome) that may result from extended or improper use of these terminals. This law requires that training be done orally and in writing to all VDT users annually. Included in the training is instruction on proper use of equipment (chairs, desks, terminal holders) and lighting.

A. All new employees must receive the training within one month of their starting date as a VDT operator. A VDT user can request, through the Town of Baldwin Safety Committee, that a professional trained in proper use of VDTs review the employee's work station and recommend any improvements.

B. The Town of Baldwin will make every effort to insure that each VDT user has the proper equipment to perform their job safely and effectively.

52. Personal Use of Town Vehicles by Town Employees. The Town recognizes that certain employees are required to be "on-call" during off duty hours. This policy is intended to assure that these employees are able to have the vehicles at the disposal necessary to fulfill the duties of their positions while at the same time ensuring only those uses authorized by the Town are permitted.

A. Fire Department

a. Marked Vehicles: Employees, whose positions require that they be available during off-duty hours to respond to fires or emergency calls may with the prior approval of the Board of Selectmen or the Fire Chief, use the Town's marked fire vehicles while "on-call" during off-duty hours, even if such use involves personal matters. Marked fire vehicles used during off-duty hours shall be used exclusively within the Town's municipal boundaries (as well as on official municipal business or mutual support calls), except those employees who live outside the Town's municipal boundaries may also use such vehicles to travel to and from the employee's home but for no other use outside the Town's municipal boundaries.

B. Except as stated in this policy, Town employees shall not be permitted to use the Town's vehicles for any personal use while off-duty.

53. Town Computer Equipment and Software for Data Processing and Communication

A. General. This policy provides Baldwin town employees with the general requirements for using the Town's computers, networks, internet services and e-mail services. The computers, Town licensed software, internet access services, data collected, and entered into local or off-site data cloud storage or web-sites are all the property of the Town of Baldwin. They are significant public investment of resources and must be protected as critical and essential public records and tools for management of the Town. This policy applies to all members of Town government including non-paid members of appointed boards and committees. Loss of critical Town information on a personal computer due to the loss of the computer or hardware failure may represent a cost to Town taxpayers if that information isn't resident somewhere else.

B. Access. The access employees have to Town computers, networks, internet services and e-mail services is based upon specific job or functional requirements of Town government. Employees must have approval of an office or department head in

order to gain access to the Town's computers, systems or services. The office or department head must also approve access before an employee is authorized to use any of the Town's computers, systems or services.

C. Acceptable Use. Employee access to the Town's computers, networks, internet services and email services is to aid employees in the performance of their employment responsibilities. Unless specifically allowed elsewhere in this ordinance, any use not consistent with this purpose is prohibited.

D. E-Mail.

a. E-mail is an essential communication tool in conducting almost all functions of Town government. Currently, Town business is conducted using a combination of commercial and personal e-mail accounts such as G-Mail, Yahoo Mail, and Time Warner accounts. It is the goal that all Town business, including e-mail, be conducted on Town owned and managed hardware and software.

b. Employees sending and receiving e-mail on hardware that is used to conduct to business need to be constantly aware that it is not necessary for an e-mail to contain an attachment in order to deliver a virus. Viruses can be transmitted simply by opening infected mail. Because preview panes and auto-preview functions work by opening the mail, those features shall be disabled on all computers and systems. Further, employees should not open mail from sources unfamiliar to them.

c. Employees are cautioned that e-mail is considered a public record under Maine's Freedom of Access law. This is true for all Town related e-mail, even that residing on non-Town owned computers. Employees should assume that any e-mail may be deemed "public information" and treated the same as any other written communication related to the conduct of Town business.

d. Precautions should be taken to preserve important communications in hard copy form whenever practical. Consideration should be given to archiving e-mails to media for permanent storage on writable CD material.

e. Employees are cautioned that deliberative discussions via e-mail could be construed to be a public meeting under Maine's Freedom of Access law.

f. Employees are cautioned to avoid using e-mail and other mediums to promote, advocate or communicate personal views or the views of other individuals or organizations that could be perceived as an endorsement by the municipal government of the Town when no such endorsement has been provided.

g. Employees shall not make the name and e-mail addresses of other employees available to those whose intent is to communicate with employees for purposes unrelated to their job responsibilities.

h. Employees shall not send to or receive on Town owned hardware, any e-mails not directly related to Town business.

i. Employees shall not send e-mails concerning Town business that contain information that could be deemed inappropriate or illegal to the Town. This should not be interpreted to prohibit use of e-mail in the essential conduct of Town business.

D. Internet & Websites. Internet access is essential for accomplishing most office functions. Town employees need to be careful when downloading files from the internet. Viruses and other harmful software can be spread via files from the internet.

E. Personal Use. Personal use of the Town's computers, networks, internet services

and e-mail services is permitted so long as such use does not interfere with the employee's job duties and performance, with system operations, or other Town users. Such personal use must be consistent with appropriate professional conduct. Employees are reminded that all personal use must comply with this ordinance as well as all other procedures, regulations and laws. Employees are further reminded that all use may be monitored and inspected.

Employees shall not install, or attempt to install, on any Town computer or system, personally owned software or shareware downloaded from the internet. Any use of the Town's equipment or services for private financial gain, commercial advertising or solicitation purposes is prohibited.

F. Copyrights. It is the policy of the Town of Baldwin to fully comply with all laws pertaining to the reproduction, use or distribution of copyrighted or otherwise protected materials and software. The Town will comply with all licensing requirements. Employees shall not install, or attempt to install, any software on any computer or system unless the Town is properly licensed and approval is obtained from the system administrator. Employees shall not make copies of software other than those copies authorized in the software license. Employees shall respect the copyrighted protection of materials found on the internet.

G. Other Prohibited Uses. Any use that is determined to be inconsistent with this ordinance or other policies, rules or regulations of the Town of Baldwin is prohibited. In addition to the prohibited uses cited throughout this ordinance, other prohibited uses include but are not limited to:

- a. Any use that is illegal.
- b. Any use involving materials that are obscene, sexually explicit or sexually suggestive.
- c. Any use that represents personal views as the views of the Town of Baldwin.
- d. Malicious use or deliberate disruption of the Town's computers, networks, internet services or e-mail services and/or breach of security features.
- e. Misuse or deliberate damage to the Town's computer systems and/or components.
- f. Copying, downloading, and installing/removing software or applications without the approval of the system administrator.
- g. Failing to report a known breach of computer security to a system administrator or supervisor.

H. Breaches of Policy

- a. Failure to comply with this ordinance may result in disciplinary action, up to and including termination of employment. Violations of the ordinance that

are also violations of law may result in referral to law enforcement authorities. Employees who violate this policy may also be required to compensate the Town for any damages or costs whether direct or as a consequence of the failure to adhere to this ordinance. The Town will not make job accommodations to individuals who have, by virtue of inappropriate conduct, lost the privilege of using the Town's computers, systems, internet services or email services.

54. Amendments. The Town may amend and supplement this policy from time to time. Employees will be provided with any amendments and supplements and are expected to abide by them.

This policy shall become effective upon approval at Town Meeting.

Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs
in the Municipality of Baldwin

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442, as enacted by CHAPTER 417 "MARIJUANA LEGALIZATION ACT" which statute is incorporated by reference as it exists at the time that this ordinance is enacted.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442 as enacted by CHAPTER 417 "MARIJUANA LEGALIZATION ACT."

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be deemed a land use violation subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

Sand Pond Town Beach Ordinance

- 1 The Beach area, Boat Launching area, and Parking area of the town beach shall be reserved for the use of Baldwin residents and taxpayers only.
2. Only those vehicles identified with an official town sticker issued will be permitted to park in the beach area. All others will be towed at the owners expense.
3. Roadways and Boat ramp access areas must not be blocked at any time.
4. Parking will be in designated areas only.
5. No motor vehicles of any kind will be allowed on the beach at any time from April 1 to October 30.
6. All persons are responsible for taking care of their own trash. Trash barrels will be provided for beach trash only.
7. No fires of any kind at any time.
8. No smoking.
9. No camping.
10. No animals.
- 11 No alcoholic beverages, controlled substances or persons under the influence of either will be allowed.
- 12 The Beach area, Boat Launching area and parking area will be closed from 9PM to 6AM. Subject to change.
- 13 The speed limit on the town beach road is 15 MPH and will be enforced.
- 14 Each part of this ordinance is severable, and if any phrase, clause, sentence or provision is declared contrary to the law, the validity of the remainder shall not be affected thereby.

SHORELAND ZONING ORDINANCE

FOR THE TOWN OF

BALDWIN

ADOPTED ON MARCH 10, 2018

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1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any great pond or river,
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland,

and all land areas within 100 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

4. **Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted at Town Meeting on _____, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. **Districts and Zoning Map**

- A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

- (1) Resource Protection
- (2) Stream Protection

- B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

- C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

- D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

11. **Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

12. **Non-conformance**

- A. **Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as

otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

- (1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a), (b) (c) and (d) below.
 - (a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
 - (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).
 - (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
 - (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.
 - (i) For structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total

footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

- (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
 - (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
 - (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- (2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.
- (3) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the

land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

- (5) **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

E. Non-conforming Lots

- (1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not

meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the *State Minimum Lot Size Law* (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

13. Establishment of Districts

A. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially

connected to a water body during the period of normal high water **NOTE:** These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

- (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

B. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (100) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

- 14. Table of Land Uses.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

SP - Stream Protection

The following notes are applicable to the Land Uses Table on the following page:

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT	
	SP	RP
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes
3. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹
4. Fire prevention activities	yes	yes
5. Wildlife management practices	yes	yes
6. Soil and water conservation practices	yes	yes
7. Mineral exploration	no	yes ²
8. Mineral extraction including sand and gravel extraction	no	PB ³
9. Surveying and resource analysis	yes	yes
10. Emergency operations	yes	yes
11. Agriculture	yes	PB
12. Aquaculture	PB	PB
13. Principal structures and uses		
A. One and two family residential, including driveways	PB ⁴	PB ⁹
B. Multi-unit residential	no	no
C. Commercial	no	no ¹⁰
D. Industrial	no	no
E. Governmental and institutional	no	no
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB
14. Structures accessory to allowed uses	PB ⁴	PB
15. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland		
a. Temporary	CEO ¹¹	CEO ¹¹
b. Permanent	PB	PB
16. Conversions of seasonal residences to year-round residences	LPI	LPI
17. Home occupations	PB	PB
18. Private sewage disposal systems for allowed uses	LPI	LPI
19. Essential services	PB ⁶	PB ⁶
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶
D. Other essential services	PB ⁶	PB ⁶

20. Service drops, as defined, to allowed uses	yes	yes
21. Public and private recreational areas involving minimal structural development	PB	PB
22. Individual, private campsites	CEO	CEO
23. Campgrounds	no	no ⁷
24. Road construction	PB	no ⁸
25. Parking facilities	no	no ⁷
26. Marinas	PB	no
27. Filling and earth moving of <10 cubic yards	CEO	CEO
28. Filling and earth moving of >10 cubic yards	PB	PB
29. Signs	yes	yes
30. Uses similar to allowed uses	CEO	CEO
31. Uses similar to uses requiring a CEO permit	CEO	CEO
32. Uses similar to uses requiring a PB permit	PB	PB

¹In RP not allowed within 100 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶See further restrictions in Section 15(L)(2).

⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in Section 15(H)(4).

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit not required but must file a written "notice of intent to construct" with CEO.

¹³Option 3 towns only.

NOTE: Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate "piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland".

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area in Acres	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Non-Tidal Areas	2.00	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Non-tidal Areas	3.00	300

(c) Public and Private Recreational Facilities

(i) Within the Shoreland Zone
Non-Tidal Areas

2.00

200

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.
 - (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
 - (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix A), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
 - (c) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream

as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure, however, the Planning Board may decide to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area including, cupola, dome, widow's walk or other similar feature from the height limits in accordance with 38 M.R.S.A. Section 439-A(9).
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

- (4) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (d) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (e) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the *Natural Resources Protection Act*, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

- (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.
 - (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
 - (9) Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
 - (10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
 - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
 - (b) Revegetation must occur in accordance with Section 15(S).
 - (11) A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:
 - (a) The total deck area attached to the structure does not exceed 700 square feet;
 - (b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
 - (c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;
 - (d) The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15(B); and
 - (e) The construction of the deck complies with all other state and federal laws.
- D. Campgrounds.** Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:
- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories

- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (100) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable

alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(T).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs. The following provisions shall govern the use of signs in the Resource Protection and Stream Protection districts,

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only inward and downward by shielded, non-flashing lights which are attached to the signs.

J. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (100) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (100) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (100) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in

existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (100) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board
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N. Timber Harvesting

As of _____, 2018 the town of Baldwin has given all authorization of Timber Harvesting over to the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry

O. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section Q..

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (100) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
 - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 – <8 in.	2
8-< 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
- (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment

operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).

- (3) At distances less than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (100) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area, but shall not apply to the General Development or Commercial Fisheries/Maritime Activities Districts.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

P. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

- (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
 - (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (ii) Stumps from the storm-damaged trees may not be removed;
 - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
 - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

Q. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such

- as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
 - (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
 - (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
 - (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
 - (a) A coastal wetland; or
 - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
 - (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
 - (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

R. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
 - (a) All trees and saplings removed must be replaced with native noninvasive species;
 - (b) Replacement vegetation must at a minimum consist of saplings;
 - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
 - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

- (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

S. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- T. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- U. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- V. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

16. Administration

A. Administering Bodies and Agents

- (1) **Code Enforcement Officer.** A Code Enforcement Officer shall be duly appointed in conformance with town regulations
- (2) **Board of Appeals.** A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) **Planning Board.** A Planning Board shall be created in accordance with the provisions of State law.

- B. Permits Required.** After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use

or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 100 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or owners agent who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

- D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

E. Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides,

based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 100 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

- (a) **Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
- (b) **Variance Appeals:** To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) **Variance Appeals.** Variances may be granted only under the following conditions:

- (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- (c) The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the code enforcement officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- (ii) The person filing the appeal shall have the burden of proof.

- (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) **Appeal to Superior Court.** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

I. Enforcement

- (1) **Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) **Code Enforcement Officer**
- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
 - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

- (3) **Legal Actions.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) **Fines.** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

17. Definitions

For the purposes of Shoreland Zoning regulations the following Definitions shall apply:

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Bureau of Forestry – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- (1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds. Ponds in Baldwin meeting this classification include: **Sand Pond and Southeast Pond**

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing

cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

(1) in the case of electric service

- (a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- (b) the total length of the extension is less than one thousand (1,000) feet.

(2) in the case of telephone service

- (a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- (b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (100) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater wetland.

Significant River Segments - See Appendix A or 38 M.R.S.A. section 437.

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent , highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tree - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tributary stream – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

Subdivision Ordinance

Town of Baldwin, Maine

As Adopted March 10, 2001

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ARTICLE 1 - PURPOSES

The purposes of these regulations are:

- 1.1** To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.2** To clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A., §4404;
- 1.3** To assure new development in the Town of Baldwin meets the goals and conforms to the policies of the Baldwin Comprehensive Plan;
- 1.4** To assure the comfort, convenience, safety, health and welfare of the people of the Town of Baldwin;
- 1.5** To protect the environment and conserve the natural and cultural resources identified in the Baldwin Comprehensive Plan as important to the community;
- 1.6** To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- 1.7** To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- 1.8** To promote the development of an economically sound and stable community.

ARTICLE 2 - AUTHORITY AND ADMINISTRATION

2.1 Authority.

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. These standards shall be known and may be cited as "Subdivision Regulations of the Town of Baldwin, Maine."

2.2 Administration.

- A. The Planning Board of the Town of Baldwin, hereinafter called the Board, shall administer these regulations.
- B. The provisions of these regulations shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Baldwin.

2.3 Amendments.

- A. This ordinance may be amended by:
 - 1. The Legislative Body of the Town of Baldwin.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

ARTICLE 3 - DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Baldwin Zoning Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: Housing units which will meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Buffer Area: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Comprehensive Plan: A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Density: The number of dwelling units per acre of land.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

Driveway: A vehicular accessway serving two dwelling units or less.

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BOD₅ and total suspended solids concentrations than domestic waste water.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Freshwater Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to $\frac{1}{8}$ acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

100-Year Flood: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

High Water Mark:

Inland Waters: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, 1991 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Multifamily Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

Municipal Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development as outlined in Section 12.10.C.3.

Net Residential Density: The average number of dwelling units per net residential acre.

New Structure or Structures: Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Board: The Planning Board of the Town of Baldwin

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Professional Engineer: A professional engineer, registered in the State of Maine.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Reserved Affordable Housing: Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 80% or less of the area median household income.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

Street Classification:

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets: State Routes 5, 11, 107, 113 and The Douglas Hill Rd. and the River Road.

Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Residential Street: A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

Private Right-of-Way: A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5-year period, that begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel shall be considered to create the first 2 lots and the next dividing of either of the first 2 lots, by whomever accomplished, unless otherwise exempted herein shall be considered to create a third lot, unless:

- a. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36 M.R.S.A., §1102 for a period of at least 5 years before the second dividing occurs; or
- b. The division of the tract or parcel is otherwise exempt under this definition.

A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of these regulations, unless the intent of the transferor in any transfer or gift is to avoid the objectives of these regulations. If real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this definition. The grant of bona fide security interest in an entire lot that has been exempted from the definition under this paragraph, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of these regulations.

In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

Subdivision, Major: Any subdivision containing more than four lots or dwelling units, or any subdivision containing a proposed street.

Subdivision, Minor: Any subdivision containing four lots or dwelling units or less, and in which no street is proposed to be constructed.

Tract or Parcel of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the Board's written agenda.

ARTICLE 5 - PREAPPLICATION MEETING, SKETCH PLAN AND SITE INSPECTION

5.1 Purpose.

The purpose of the preapplication meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

5.2 Procedure.

- A. The applicant shall present the Preapplication Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. All Sketch Plans shall be accompanied by a nonrefundable fee of \$25.
- C. Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the application.
- D. The date of the on-site inspection is selected.

5.3 Submission.

The Preapplication Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. The Sketch Plan shall be accompanied by:

- A. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision unless the proposed subdivision is less than ten acres in size.
- B. A copy of that portion of the county soil survey covering the proposed subdivision, showing the outline of the proposed subdivision.

5.4 Contour Interval and On-Site Inspection.

Within thirty days of the preapplication meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall not conduct on-site inspections when there is more than one foot of snow on the ground.

5.5 Rights not Vested.

The preapplication meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

5.6 Establishment of File.

Following the preapplication meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting and application shall be maintained in the file.

ARTICLE 6 - MINOR SUBDIVISION

6.1 General.

The Board may require, where it deems necessary to make a determination regarding the criteria for approval from Title 30-A M.R.S.A., §4404, or the standards from Article 11 of these regulations, that a Minor Subdivision comply with some or all of the submission requirements for a Major Subdivision.

6.2 Procedure.

- A. Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a final plan at least ten days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal office or delivered by hand to the municipal office. Failure to submit the application within six months shall require resubmission of the Sketch Plan to the Board. The final plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for final plan approval for a Minor Subdivision shall be accompanied by a non-refundable application fee of \$25 per lot or acre, whichever is greater, payable by check to the municipality. In addition, the applicant shall pay a fee of \$100 per lot or acre, whichever is greater, to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$100 per lot or acre, whichever is greater, be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$100 per lot or acre, whichever is greater, be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising.
- C. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends. D. At the meeting at which an application for final plan approval of a minor subdivision is initially presented, the Board shall:
1. Issue a dated receipt to the applicant.
 2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its

determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

- F. Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination. The Board shall determine whether to hold a public hearing on the final plan application.
- G. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and abutters.
- H. Within thirty days from the public hearing or within sixty days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained in Title 30-A M.R.S.A., §4404 and the standards of Article 11. If the Board finds that all the criteria of the Statute and the standards of Article 11 have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of Article 11 have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The Board shall issue a written notice of its decision to the applicant, including its findings, conclusions and any reasons for denial or conditions of approval.

6.3 Submissions.

The final plan application shall consist of the following items.

- A. Application Form.
- B. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
 - 1. Existing subdivisions in the proximity of the proposed subdivision.
 - 2. Locations and names of existing and proposed streets.
 - 3. Boundaries and designations of zoning districts.
 - 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Final Plan. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. The reproducible transparencies shall be embossed with the seal of the individual responsible for preparation of the plan. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all

necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted. In addition, one copy of the Plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to the town clerk for distribution to each Board member no less than 10 days prior to the meeting.

D. Application Requirements.

The application for approval of a Minor Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
2. Verification of right, title, or interest in the property.
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. An indication of the type of water supply system(s) to be used in the subdivision.
 - a. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
8. The date the plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and adjoining property owners.
10. A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.

11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing existing vegetation.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.
14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
17. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
18. The location of any open space to be preserved and a description of proposed improvements and its management.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the municipal officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
21. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985, or

- b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; or proposed use of shared or common subsurface waste water disposal systems.

The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.

- 22. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, 1991 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- 23. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- 24. A storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995), to achieve, by design, 15% reduction in suspended solids. The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- 25. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991, and reviewed by the Cumberland County Soil and Water Conservation District. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- 26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries

and Wildlife or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

27. If the proposed subdivision is in the direct watershed of a great pond, a phosphorus control plan.
 - a. For subdivisions which qualify for the simplified review procedure as described in Section 11.17.A.2, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems.
 - b. For subdivisions which do not qualify for the simplified review procedure as described in Section 11.17.A.2, the following shall be submitted.
 1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 revision.
 2. A long-term maintenance plan for all phosphorus control measures.
 3. The contour lines shown on the plan shall be at an interval of no less than five feet.
 4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.
28. The location and method of disposal for land clearing and construction debris.

ARTICLE 7 - PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure.

- A. Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan at least ten days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. Failure to submit an application within six months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for preliminary plan approval for a Major Subdivision shall be accompanied by an application fee of \$25 per lot or acre, whichever is greater, payable by check to the municipality. In addition, the applicant shall pay a fee of \$50 per lot or ~~acre, whichever is greater~~, to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$25 per lot or ~~acre, whichever is greater~~, be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$25 per lot or acre, whichever is greater, be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising. 15,000K
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- C. The applicant, or the applicant's representative, shall attend the meeting of the Board to present the preliminary plan application. Failure to attend the meeting to present the preliminary plan application shall result in a delay of the Board's receipt of the plan until the next meeting that the applicant attends.
- D. Within 10 working days of the meeting at which an application for preliminary plan approval of a major subdivision is initially presented, the Board shall:
1. Issue a dated receipt to the applicant.
 2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. Within thirty days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

- F. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of its determination. The Board shall determine whether to hold a public hearing on the preliminary plan application.
- G. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and to property owners within 500 ft. of the proposed subdivision.
- H. Within thirty days from the public hearing or within sixty days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- I. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the final plan;
 - 2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 - 3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
- J. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

7.2 Submissions.

The preliminary plan application shall consist of the following items.

- A. Application Form.
- B. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
 - 1. Existing subdivisions in the proximity of the proposed subdivision.
 - 2. Locations and names of existing and proposed streets.

3. Boundaries and designations of zoning districts.
 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Preliminary Plan. The preliminary plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to the town clerk for distribution to each of the Board members no less than 10 days prior to the meeting.
- D. Application Requirements. The application for preliminary plan approval shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.
1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
 2. Verification of right, title or interest in the property.
 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
 4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
 6. An indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
 7. An indication of the type of water supply system(s) to be used in the subdivision.
 - a. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
 8. The date the plan was prepared, north point, and graphic map scale.

9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
10. A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
17. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
18. The proposed lot lines with approximate dimensions and lot areas.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
20. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
21. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
23. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985, or

- b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; or the proposed use of shared or common subsurface waste water disposal systems.

The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.

24. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, 1991 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
25. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
27. If the proposed subdivision is in the direct watershed of a great pond, and qualifies for the simplified review procedure for phosphorus control, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems and the application shall include a long-term maintenance plan for all phosphorus control measures.

ARTICLE 8 - FINAL PLAN FOR MAJOR SUBDIVISION

8.1 Procedure.

- A. Within six months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan at least ten days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

- B. All applications for final plan approval for a major subdivision shall be accompanied by an application fee of \$25 per lot or ³⁰⁰ ~~acre~~, whichever is greater, payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
1. Maine Department of Environmental Protection, under the Site Location of Development Act.
 2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
 3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
 4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
 5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- D. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting to present the final plan application shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.

- E. At the meeting at which an application for final plan approval of a major subdivision is initially presented, the Board shall issue a dated receipt to the applicant.
- F. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- G. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant. The Board shall determine whether to hold a public hearing on the final plan application.
- H. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing.
- I. The Board shall notify the road commissioner, school superintendent, police chief, and fire chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- J. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 13.
- K. Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2 Submissions.

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of the plan shall be submitted. The applicant may instead submit one reproducible

stable-based transparent original of the final plan and one recording plan with three copies of the final plan. In addition, one copy of the final plan, reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to the town clerk, for distribution to each Board member, no less than 10 days prior to the meeting.

The final plan shall include or be accompanied by the following information.

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- B. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- C. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- D. An indication of the type of water supply system(s) to be used in the subdivision.
 - 1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
 - 2. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- E. The date the plan was prepared, north point, graphic map scale.
- F. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- G. The location of any zoning boundaries affecting the subdivision.
- H. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
- K. Street plans, meeting the requirements of Section 12.2.B.2.

- L. A storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995). The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- M. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- N. The width and location of any streets or public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
- O. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
- P. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- Q. If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control under Section 11.17.A.2, the following shall be submitted or indicated on the plan.
 - 1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the *Technical Guide*.
 - 2. A long-term maintenance plan for all phosphorus control measures.
 - 3. The contour lines shown on the plan shall be at an interval of no less than five feet.
 - 4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

- R. A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, and evidence that the applicant has financial commitments or resources to cover these costs.
- S. A list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

Schools, including busing

Street maintenance and snow removal

Police and fire protection

Solid waste disposal

Recreation facilities

Storm water drainage

Waste water treatment

Water supply

The applicant shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

- T. The location and method of disposal for land clearing and construction debris.

8.3 Final Approval and Filing.

- A. No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the code enforcement officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built

subdivisions, the Board shall require the plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE 9 - REVISIONS TO APPROVED PLANS

9.1 Procedure.

An applicant for a revision to a previously approved plan shall, at least ten days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

9.2 Submissions.

The applicant shall submit a copy of the approved plan as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

9.3 Scope of Review.

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

ARTICLE 10 - INSPECTIONS AND ENFORCEMENT

10.1 Inspection of Required Improvements.

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
 - 1. Notify the code enforcement officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 9.
- D. At the close of each summer construction season, or by November first, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.

- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.
- G. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

10.2 Violations and Enforcement.

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with these regulations.
- B. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

ARTICLE 11 - PERFORMANCE STANDARDS

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

11.1. Pollution.

- A. The proposed subdivision shall not discharge waste water to a water body without a license from the Maine Department of Environmental Protection.
- B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

11.2. Sufficient Water.

A. Water Supply.

- 1. Any subdivision within the area designated in the comprehensive plan for future public water supply service shall make provisions for connection to the public system. When public water supply service will not be available at the time of construction of the subdivision, a "capped system" shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.
- 2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. [The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief.]
- 3. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system.
 - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
 - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.

- c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
- d. In areas where the comprehensive plan has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in writing that alternate methods of fire protection are available.

B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

11.3 Soil Erosion.

- A. The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

11.4 Traffic Conditions.

- A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
 - 1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
 - 2. Avoid traffic congestion on any street; and
 - 3. Provide safe and convenient circulation on public streets and within the subdivision.
- B. More specifically, access and circulation shall also conform to the following standards.
 - 1. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing streets which the comprehensive plan has classified as residential access streets.

2. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below, unless the comprehensive plan has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection.
3. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways and traffic controls within existing public streets.
4. Accessways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.
5. Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality designated as growth areas in the comprehensive plan; or in non-residential subdivisions when such access shall be provided if it will:
 - a. Facilitate fire protection services as approved by the fire chief; or
 - b. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.
6. Street Names, Signs and Lighting.

Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as approved by the Board.

7. Clean-up.

Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

11.5 Sewage Disposal.

A. Public System.

1. Any subdivision within the area designated in the comprehensive plan for future public sewage disposal service shall be connected to the public system.

2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
4. The sewer district shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer district or department.

B. Private Systems.

1. When a proposed subdivision is not within the area designated for public sewage disposal service in the comprehensive plan, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge.
2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
 - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to a disposal area on soils which meet the Disposal Rules.
 - b. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
 - c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

11.6 Impact on the Municipality's Ability to Dispose of Solid Waste.

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility, which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

11.7 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

A. Preservation of Natural Beauty and Aesthetics.

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
2. Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads.
3. The Board may require the application to include a landscape plan that will show the preservation of any existing trees larger than 24 inches diameter breast height, the replacement of trees and vegetation, and graded contours.
4. When a proposed subdivision street traverses open fields the plans shall include the planting of street trees.

B. Retention of Open Spaces and Natural or Historic Features.

1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.
4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics.
5. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
6. Reserved open space land may be dedicated to the municipality.
7. Where land within the subdivision is not suitable or is insufficient in amount, where the applicant prefers, or when suggested by the comprehensive plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that

percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:
 - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
 - d. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or
2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
3. Or other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas,

the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

- D.** Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

11.8 Conformance with Zoning Ordinance and Other Land Use Ordinances.

All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

11.9 Financial and Technical Capacity.

A. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision

improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability.

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

11.10 Impact on Water Quality or Shoreline.

Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies.

11.11 Impact on Ground Water Quality or Quantity.

A. Ground Water Quality.

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - a. A map showing the basic soils types.
 - b. The depth to the water table at representative points throughout the subdivision.
 - c. Drainage conditions throughout the subdivision.
 - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
 - f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

B. Ground Water Quantity.

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

11.12 Floodplain Management.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

11.13 Identification of Freshwater Wetlands.

Freshwater wetlands shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.

11.14 Storm Water Management.

- A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a

management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, in conformance with the policies of the comprehensive plan. The storm water management system shall be designed to meet the following standards:

1. Quantity.

Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.

2. Quality.

a. Major Subdivisions.

Storm water run-off in major subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, to achieve, by design, 40% reduction in total suspended solids.

b. Minor Subdivisions.

Storm water run-off in minor subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, to achieve, by design, 15% reduction in total suspended solids.

- B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

11.15 Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.

A. All open space common land, facilities and property shall be owned by:

1. The owners of the lots or dwelling units by means of a lot owners' association;
2. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
3. The municipality.

- B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-

commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.

- C. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
 - 1. It shall not be used for future building lots; and
 - 2. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
- D. The final plan application shall include the following:
 - 1. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
 - 2. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
 - 3. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
- E. In combination, the documents referenced in paragraph D above shall provide for the following:
 - 1. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
 - 2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
 - 3. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
 - 4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

11.16 Phosphorus Impacts on Great Ponds.

- A. Phosphorus Export.
 - 1. Any subdivision within the watershed of a great pond shall limit its post development phosphorus export to the standards contained in Table 11.17-1, dependent on the great pond in whose watershed the subdivision is located.
 - 2. Simplified Phosphorus Review.

The simplified review may be used for a

- a. Proposed subdivision of three or four lots with less than 200 feet of new or upgraded street with a cumulative driveway length not to exceed 450 feet for a three lot subdivision or 600 feet for a four lot subdivision;
- b. Proposed subdivision of three or four lots with no new or upgraded street with a cumulative driveway length not to exceed 950 feet for three lot subdivisions or 1,100 feet for four lot subdivisions; or
- c. Proposed subdivision consisting of multi-family dwellings that have less than 20,000 square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded streets not exceeding 200 linear feet.

A proposed subdivision which creates lots which could be further divided such that five or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

3. Standard Review.

This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorus export from a proposed development shall be calculated according to the procedures in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. When a proposed subdivision creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions, the applicant shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

4. Maintenance and Use Restrictions for Phosphorus Control Measures.

Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.

a. Vegetative Buffer Strips.

Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the plan. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners' association shall include the following standards.

i. Wooded Buffers.

Maintenance provisions for wooded buffers shall provide for either of the following two options.

(a) No Disturbance.

Maintenance and use provisions for wooded buffer strips which are located on hydrologic soil group D soils and within 250 feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.

- [1] Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.
- [2] All existing undergrowth (vegetation less than four feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six feet, is allowed through the buffer. This path shall not be a straight line to the great pond or tributary and shall remain stabilized.
- [3] Pruning of live tree branches that do not exceed twelve feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- [4] No cutting is allowed of trees except for normal maintenance of dead, wind blown, or damaged trees.
- [5] Buffers shall not be used for all-terrain vehicle or vehicular traffic.

(b) Limited Disturbance.

Maintenance and use provisions for other buffer strips may include the following:

- [1] There shall be no cleared openings. An evenly distributed stand of trees and other vegetation shall be maintained.
- [2] Activity within the buffer shall be conducted to minimize disturbance of existing forest floor, leaf litter and vegetation less than four feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.
- [3] Removal of vegetation less than four feet in height is limited to that necessary to create a winding foot path no wider than six feet. This path shall not be a straight line to the great pond or a tributary. The path must remain stabilized.
- [4] Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- [5] Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening, those openings shall be replanted

with native trees at least three feet in height unless existing new tree growth is present.

[6] Buffers shall not be used for all terrain vehicle or vehicular traffic.

ii. Non-wooded Buffers.

- (a) Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.
- (b) A buffer must maintain a dense, complete and vigorous cover of "non-lawn" vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.
- (c) Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.
- (d) Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

b. Infiltration Systems.

Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. Requirements for maintenance shall be included in deed restrictions and as notes upon the plan. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, a lot owners' association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

c. Wet Ponds.

A lot owners' association shall be established to maintain wet ponds, unless the municipality or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992.

ARTICLE 12 - DESIGN GUIDELINES

This article is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of Article 11. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

12.1. Sufficient Water.

A. Well Construction.

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
2. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

B. Fire Protection.

1. A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the fire chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice.
2. Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches.
3. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the municipality shall be provided to allow access. A suitable accessway to the hydrant or other water source shall be constructed.

12.2. Traffic Conditions.

A. Access Control.

1. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.

2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
3. Subdivision Access Design for Subdivisions Entering onto Arterial Streets.

When the access to a subdivision is a street, the street design and construction standards of Section 12.2.B below shall be met. Where there is a conflict between the standards in this section and the standards of Section 12.2.B, the stricter or more stringent shall apply.

- a. General.

Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the *Trip Generation Manual*, 1991 edition, published by the Institute of Transportation Engineers.

1. Low Volume Access: An access with 50 vehicle trips per day or less.
2. Medium Volume Access: Any access with more than 50 vehicle trips per day but less than 200 peak hour vehicle trips per day.
3. High Volume Access: Peak hour volume of 200 vehicle trips or greater.

- b. Sight Distances.

Accesses shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/4 feet above the pavement. The required sight distances are listed by road width and for various posted speed limits.

1. Two Lane Roads.

A minimum sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

2. Four Lane Roads.

The sight distances provided below are based on passenger cars exiting from accesses onto four lane roads and are designed to enable exiting vehicles:

- (a) Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than 10 miles per hour, and
- (b) Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

Operating Speed (mph)	Safe Sight Distance - <u>Left (ft.)</u>	Safe Sight Distance - <u>Right (ft.)</u>
20	130	130
30	220	260
40	380	440
50	620	700

c. Vertical Alignment.

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3 percent or less for at least 75 feet. The maximum grade over the entire length shall not exceed 10%.

d. Low Volume Accesses.

1. Skew Angle.

Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

2. Curb Radius.

The curb radius shall be between 10 feet and 15 feet, with a preferred radius of 15 feet.

3. Access Width.

The width of the access shall be between 20 feet and 24 feet, with a preferred width of 20 feet.

e. Medium Volume Accesses.

1. Skew Angle.

Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90° as site conditions permit, but in no case less than 60°.

2. Curb Radius.

Curb radii will vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.

3. Width.

On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the

width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

4. Curb-Cut Width.

On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

f. High Volume Accesses.

1. Skew Angle.

High Volume Accesses shall intersect the road at an angle as nearly to 90° as site conditions permit, but in no case less than 60°.

2. Curb Radius.

Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.

3. Curb Cut Width.

Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.

4. Entering and exiting accesses shall be separated by a raised median which shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.

5. Width.

Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.

6. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

g. Special Case Accesses.

Special Case Accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.

1. Perpendicular Driveways.

(a) Curb Radii.

Curb radii shall be between 30 feet and 50 feet, with a preferred radius of 50 feet.

(b) Access Width.

Access width shall be between 26 feet and 30 feet with a preferred width of 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.

(c) Curb-Cut Width.

The total curb-cut width shall be between 86 feet and 130 feet with a preferred width of 130 feet.

(d) Channelization Island.

The channelization island on two-way accesses shall be raised and curbed. Corner radii shall be 2 feet.

2. Skewed Accesses.

(a) Skew Angle.

The skew angle shall be between 45° and 60° , with a preferred angle of 45° .

(b) Curb Radii.

Curb radii shall be between 30 feet and 50 feet on the obtuse side of the intersection, with a preferred radius of 50 feet. Curb radii shall be between 5 feet and 10 feet on the acute side of the intersection with a preferred radius of 5 feet.

(c) Access Width.

Access width shall be between 15 feet and 24 feet with a preferred width of 20 feet. Where entering and exiting access meet, the width shall be between 24 and 30 feet with a preferred width of 30 feet.

(d) Curb-Cut Width.

The curb-cut width for each access shall be between 35 feet and 75 feet with a preferred width of 42 feet.

h. Access Location and Spacing.

1. Minimum Corner Clearance.

Corner clearance shall be measured from the point of tangency for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum

corner clearances are listed in Table 12.2-1, based upon access volume and intersection type.

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

Table 12.2-1. Minimum Standards for Corner Clearance

<u>Access Type</u>	<u>Minimum Corner Clearance (feet)</u>	
	<u>Intersection Signalized</u>	<u>Intersection Unsignalized</u>
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250
Special Case		
Right turn in only	50	50
Right turn out only	100	50
Right turn in or out only	100	50

2. Access Spacing.

Accesses and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in Table 12.2-2, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

Table 12.2-2. Minimum Access Spacing

<u>Access Type</u>	<u>Minimum Spacing to Property Line (Dpl)¹ (feet)</u>	<u>Minimum Spacing to Adjacent Access by Access Type² (Dsp)³</u>			
		<u>Medium (feet)</u>	<u>High w/o RT* (feet)</u>	<u>High w/RT** (feet)</u>	<u>Special Case (feet)</u>
Low Volume	5				
Medium Volume	10	75			
High Volume (w/o RT)*	75	75	150		
High Volume (w/ RT)**	75	75	250	500	
Special Case	10	75	75	75	40***

¹ Dpl measured from point of tangency of access to projection of property line on

roadway edge.

² For two more accesses serving a single parcel, or from a proposed access from an existing access.

³ Dsp measured from point of tangency of access to point of tangency of adjacent access.

* High volume access without right turn channelization

** High Volume access with right turn channelization

*** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

i. Number of Accesses.

The maximum number of accesses on to a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

1. No low volume traffic generator shall have more than one two-way access onto a single roadway.

2. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

j. Construction Materials/Paving.

1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.

2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses, regardless of access volume, shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

B. Street Design and Construction Standards.

1. General Requirements.

a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:

1. Date, scale, and north point, indicating magnetic or true.

2. Intersections of the proposed street with existing streets.
 3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 5. Complete curve data shall be indicated for all horizontal and vertical curves.
 6. Turning radii at all intersections.
 7. Centerline gradients.
 8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Upon receipt of plans for a proposed public street the Board shall forward one copy to the municipal officers, the road commissioner, and the municipal engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the municipal engineer for review and comment.
 - d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.
 - e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards.”

2. Street Design Standards.

- a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of Article 11.
- b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
- c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.

- d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the comprehensive plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality's capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- e. Any subdivision expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- f. The design standards of Table 12.2-3 shall apply according to street classification.

Table 12.2-3. Street Design Guidelines

<u>Description</u>	<u>Type of Street</u>				
	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Rights-of-Way</u>	<u>Industrial/Commercial</u>
Minimum Right-of-Way Width	80'	50'	50'	50'	60'
Minimum Traveled Way Width	44'	24'	20'	18'	30'
Minimum Width of Shoulders (each side)	5'	3'	3'	3'	9'
Sidewalk Width	8'	5'	5'	N/A	8'
Minimum Grade	.5%	.5%	.5%	N/A	.5%
Maximum Grade*	5%	6%	8%	8%	5%
Minimum Centerline Radius without superelevation	500'	280'	280'	175'	400'
with superelevation	350'	175'	175'	110'	300'
Roadway Crown**	1/4"/ft	1/4"/ft	1/4"/ft.	***	1/4"/ft.
Minimum angle of street intersections****	90°	90°	75°	75°	90°
Maximum grade within 75 ft. of intersection	3%	3%	3%	N/A	3%
Minimum curb radii at intersections	30'	25'	20'	N/A	30'*****
Minimum r/o/w radii at intersections	20'	10'	10'	10'	20'

- * Maximum grade may be exceeded for a length of 100 feet or less.
- ** Roadway crown is per foot of lane width.
- *** Gravel surfaces shall have a minimum crown of 3/4 inch per foot of lane width.
- **** Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.
- ***** Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

g. The centerline of the roadway shall be the centerline of the right-of-way.

h. Dead End Streets.

In addition to the design standards in Table 12.2-3, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line: 60 feet; outer edge of pavement: 60 feet; inner edge of pavement: 30 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board shall require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a sixty foot easement in line with the street to provide continuation of the road where future subdivision is possible.

i. Grades, Intersections, and Sight Distances.

1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
2. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

Design Speed (mph)	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
Stopping Sight Distance (ft.)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3¹/₂ feet and the height of object at ¹/₂ foot.

3. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curblane or edge of shoulder, with the height of the eye 3¹/₂ feet, to the top of an object 4¹/₄ feet above the pavement.

Posted Speed Limit (mph)	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>	<u>45</u>	<u>50</u>	<u>55</u>
Sight Distance (ft.)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the comprehensive plan or at other important traffic intersections. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

j. Sidewalks.

Sidewalks shall be installed within all subdivisions within areas designated as growth areas in the comprehensive plan. Where sidewalks exist adjacent to a proposed subdivision outside of growth areas, sidewalks shall be installed connecting to existing sidewalks. Where installed, sidewalks shall meet these minimum requirements.

1. Location.

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 1/2 feet from the curb facing or edge of shoulder if the street is not curbed.

2. Bituminous Sidewalks.

- (a) The "subbase" aggregate course shall be no less than twelve inches thick after compaction.
- (b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

3. Portland Cement Concrete Sidewalks.

- (a) The "subbase" aggregate shall be no less than twelve inches thick after compaction.
- (b) The portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

- k. Curbs shall be installed within all subdivisions within areas designated as growth areas in the comprehensive plan. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

3. Street Construction Standards.

- a. The minimum thickness of material after compaction shall meet the specifications in Table 12.2-4.

Table 12.2-4. Minimum Pavement Materials Thicknesses

<u>Street Materials</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private</u> <u>Right of Way</u>	<u>Industrial/</u>
	<u>Commercial</u>				
Aggregate Subbase Course (Max. sized stone 6")					
Without base gravel	24"	18"	18"	15"	24"
With base gravel	20"	15"	15"	12"	20"
Crushed Aggregate Base Course (if necessary)	4"	3"	3"	3"	4"
Hot Bituminous Pavement					
Total Thickness	3"	3"	3"	N/A	4"
Surface Course	1 1/4"	1 1/4"	1 1/4"	N/A	1 1/4"
Base Course	1 3/4"	1 3/4"	1 3/4"	N/A	2 3/4"
Surface gravel	N/A	N/A	N/A	3"	N/A

b. Preparation.

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

1. Bases/Subbase.

- (a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 12.2-5.

Table 12.2-5. Aggregate Subbase Grading Requirements

<u>Sieve Designation</u>	<u>Percentage by Weight Passing</u> <u>Square Mesh Sieves</u>
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

- (b) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 12.2-6.

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

Table 12.2-6. Base Course Grading Requirements

<u>Sieve Designation</u>	<u>Percentage by Weight Passing</u> <u>Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

2. Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Pavements.

- (a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.

- (b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

4. Surface Gravel.

Private Rights-of-Way need not be paved and may have a gravel surface. Surface gravel shall be placed on top of the aggregate subbase, shall have no stones larger than two inches in size and meet the grading requirements of Table 12.2-7.

Table 12.2-7. Surface Gravel Grading Requirements

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
2 inch	95-100%
1/2 inch	30-65%
No. 200	7-12%

12.3 Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

A. Preservation of Natural Beauty and Aesthetics.

1. Unless located in areas designated as a growth area in the comprehensive plan, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
2. When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.
3. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of native species, tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

B. Retention of Open Spaces and Natural or Historic Features.

1. The subdivision shall reserve between 5% and 10-% of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting

those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.

2. Subdivisions with an average density of more than three dwelling units per acre shall provide no less than fifty percent of the open space as usable open space to be improved for ball fields, playgrounds or other similar active recreation facility. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet.
3. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
4. Proposed subdivisions which include or are adjacent to buildings or sites on the National Register of Historic Places or which the comprehensive plan has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

C. Protection of Significant Wildlife Habitat and Important Habitat Areas.

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in Section 11.8.C.

1. Protection of Habitat of Endangered or Threatened Species.
 - a. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.
 - b. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.
2. Protection of Waterfowl, Shorebird, and Wading Bird Habitat.
 - a. There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:
 1. Shorebird nesting, feeding and staging areas;

2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas; or
 3. Other important habitat areas identified in the comprehensive plan.
- b. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
3. Protection of Deer Wintering Areas.
The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.
 4. Protection of Important Shoreland Areas.
 - a. Except as in areas described in Section 12.3.C.2, within all areas subject to the state mandated 250 foot shoreland zone:
 1. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten year period.
 2. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.
 - b. These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.
 5. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the comprehensive plan, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

12.4 Storm Water Management Design Guidelines.

- A. Design of best management practices shall be substantially equivalent to those described in the *Storm Water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995.
- B. Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.
- C. The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and eighteen inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

- D. Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.
- E. Storm Drainage Construction Standards.

1. Materials.

- a. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.
- b. Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a fifty year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.
- c. Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

2. Pipe Gauges.

Metallic storm drainage pipe shall meet the thickness requirements of Table 12.4-1, depending on pipe diameter:

Table 12.4-1. Culvert Size and Thicknesses Material

<u>Inside Diameter</u>	Galvanized CMP	Aluminum Coated CMP
	<u>Aluminum/Zinc Coated CMP</u> <u>Corrugated Aluminum Alloy</u>	<u>Polymer Coated CMP</u>
15" to 24"	14 ga.	16 ga.
30" to 36"	12 ga.	14 ga.
42" to 54"	10 ga.	12 ga.
60" to 72"	8 ga.	10 ga.

3. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.
 4. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
- F. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

12.5. Impact on Water Quality or Shoreline.

Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland

edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots which include any such land shall contain the following restrictions:

- A. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.
- B. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten year period.
- C. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
- D. Pruning of tree branches, on the bottom third of the tree is permitted.

12.6 Blocks.

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 12.3.B.2.j. Maintenance obligations of the easement shall be included in the written description of the easement.

12.7 Lots.

- A. Wherever possible, side lot lines shall be perpendicular to the street.
- B. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.
- C. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- D. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot

numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board.

12.8 Utilities.

Utilities serving subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less shall be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.

12.9 Monuments.

- A. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- B. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
- C. Stone or concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill hole 1/2 inch deep shall locate the point or points described above.
- D. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

12.10 Cluster Developments.

A. Purpose.

The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances.

B. Application Procedure.

The Planning Board may allow lots within subdivisions to be reduced in area and width below the minimum normally required by this ordinance in return for open space where the Board determines that the benefits of the cluster approach will decrease development costs, increase recreational opportunities or prevent the loss of natural features without

increasing the net density of the development. Two sketch plans shall be submitted with one layout as a standard subdivision and the second as a cluster development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and lot width requirements of this ordinance, and if not serviced by public sewer have an area suitable for subsurface waste water disposal according to the Maine Subsurface Wastewater Disposal Rules. The number of buildable lots or dwelling units in the cluster development shall in no case exceed the number of lots or dwelling units in the standard subdivision.

Estimated costs of infrastructure development (roads, utilities, etc.) shall accompany the plan. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to moderate-to-high value wildlife and waterfowl habitats, important agricultural soils, moderate-to-high yield aquifers and important natural or historic sites identified by the comprehensive plan as worthy of preservation. The statement shall also compare the impacts upon the municipality from each plan. Examples of impacts are municipal cost for roads, school bussing, solid waste removal, utility efficiencies, recreational opportunities, protection of flood water storage areas, environmental impacts on sensitive lands caused by construction activities, underground utilities, reclamation of land and provision of land for conservation use.

Within ten days of receiving the completed application, the Board shall invite comments on the application from the conservation commission, the recreation commission, other appropriate town agencies, and abutters. Within thirty days of receiving the completed application, the Board shall determine whether to allow the subdivision to be developed in accordance with the cluster standards of this section.

C. Basic Requirements for Cluster Developments.

1. Cluster developments shall meet all requirements of these regulations.
2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.
3. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
 - a. 15% of the area of the lot to account for roads and parking.
 - b. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Board.
 - c. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.

- d. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 - 1. slopes greater than 20%.
 - 2. organic soils.
 - 3. wetland soils.
 - 4. 50% of the poorly drained soils.
 - e. Portions of the lot subject to rights of way.
 - f. Portions of the lot located in the resource protection zone.
 - g. Portions of the lot covered by surface waters.
 - h. Portions of the lot utilized for storm water management facilities.
4. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage shall be divided by the minimum lot size required by the zoning ordinance. No building shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland, or on soil classified as being very poorly drained.
 5. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the zoning ordinance. No less than 30% of the reserved open space shall be usable open space.
 6. The distance between buildings shall not be less than 20 feet.
 7. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
 8. Shore frontage shall not be reduced below the minimum normally required by the zoning ordinance.
 9. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

12.11 Phosphorus Export.

- A. When a proposed subdivision is within the direct watershed of a great pond and qualifies for the simplified review procedure, buffer strips shall be provided in accordance with the following table. Buffer strips shall be provided on the downhill side of all lots along all tributaries to great ponds and along the great pond.

The minimum required width of buffer strips are designated in Table 12.11-1 and depend on the watershed in which the proposed subdivision is located, the size of the lot, the

hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

Table 12.11-1 Buffer Strip Widths in
Watershed of Hypothetical Pond
Phosphorus Standard: 0.07 - 0.08 lbs./acre

<u>Lot Size</u>	<u>H.S.G.</u>	Buffer Width (ft.) per lot	
		<u>Clearing Restricted to 12,500 sq. ft.</u>	<u>No Clearing Restrictions</u>
< 1 Acre	A	75	85
	B	130	150
	C	NA	NA
	D	NA	NA
1-1.99 Acres	A	25	25
	B	25	55
	C	55	190
	D	200	NA
2-2.99 Acres	A	25	25
	B	25	25
	C	25	50
	D	25	200

H.S.G. is the Hydrologic Soil Group

All lots 3 acres and larger shall provide a minimum 25 foot buffer.

- B. When the proposed subdivision is within the direct watershed of a great pond and does not qualify for simplified reviewed, the phosphorus control measures shall meet the design criteria in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992.

ARTICLE 13 - PERFORMANCE GUARANTEES

13.1 Types of Guarantees.

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- B. A performance bond payable to the municipality issued by a surety company, approved by the municipal officers, or town manager;
- C. An irrevocable letter of credit (see Appendix B for a sample) from a financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers, or town manager; or
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the board with the advice of the municipal engineer, road commissioner, municipal officers, and/or municipal attorney.

13.2 Contents of Guarantee.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

13.3 Escrow Account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

13.4 Performance Bond.

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

13.5 Letter of Credit.

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

13.6 Conditional Agreement.

The Board at its discretion may provide for the applicant to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the final plan on the condition that no more than four lots may be sold or built upon until either:

- A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
- B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the final plan that is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.8.

13.7 Phasing of Development.

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

13.8 Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

13.9 Default.

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

13.10 Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

ARTICLE 14 - WAIVERS

14.1 Waivers Authorized.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations.

14.2 Findings of Fact Required.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

14.3 Conditions.

Waivers may only be granted in accordance with Sections 14.1 and 14.2. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

14.4 Waivers to be shown on final plan.

When the Board grants a waiver to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

ARTICLE 15 - APPEALS

15.1 Appeals to Superior Court.

An aggrieved party may appeal any decision of the Board under these regulations to Cumberland County Superior Court, within thirty days of the date the Board issues a written order of its decision.