

2017

Town of Chelsea Maine Ordinances

Chelsea, Me.

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Chelsea Addressing Ordinance

Section 1. Title

This ordinance will henceforth be known as the "Addressing Ordinance."

Section 2. Purpose

The purpose of this ordinance is to enhance the easy and rapid location of structures by law enforcement, fire, rescue, and emergency medical personnel in the municipality of Chelsea.

Section 3. Authority

This ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

Section 4. Administration

This ordinance shall be administered by the Selectmen who are authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections 5 and 6. The Selectmen shall be responsible for maintaining the following official records of this ordinance:

- a. A municipal map(s) for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current tax records, by last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

The Selectmen shall designate an Addressing Officer, who is responsible for and authorized to provide all required addressing and database information to the state agency responsible for the implementation of Enhanced 9-1-1 service.

Section 5. Naming System

All roads that serve two or more structures shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. A road name assigned by the municipality shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

- a. No two roads shall be given the same name (ex. Pine Road and Pine Lane).
- b. No two roads shall have similar-sounding names (ex. Beech Lane and Peach Lane).
- c. Each road shall have the same name throughout its entire length.

Section 6. Numbering System

The following criteria shall govern the numbering system:

- a. Numbers shall be assigned every **50 (fifty) feet** along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, as the numbers ascend. A 25-foot or less interval may be applied in more densely structured areas.
- b. All number origins shall begin from a particular Town Road or Border or that end of a road closest to the designated origin. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- c. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or the driveway of said structure if the front door cannot be seen from the main road.
- d. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy, i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Road, Apt 2.

Section 7. Compliance

All owners of structures shall, by the date stipulated in Section 9, display and maintain in a conspicuous place on said structure, assigned numbers in the following manner:

- a. **Number on the Structure or Residence.** Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.
- b. **Number at the Road Line.** Where the residence or structure is over **50 (fifty) feet** from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure.
- c. **Size, Color, and Location of Number.** Numbers shall be of a color that contrasts with their background color and shall be a minimum of four **(4) inches** in height. Numbers shall be located to be visible from the road at all times of the year.

- d. **Proper number.** Every person whose duty is to display an assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- e. **Interior location.** All residents and other occupants are requested to post their assigned number and road name adjacent to their telephone for emergency reference.

Section 8. New Construction and Subdivisions

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

- a. **New Construction.** Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the selectmen. This shall be done at the time of the issuance of the building permit.
- b. **New Subdivisions.** Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Selectmen, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 feet or such proper distance as may be determined by the proposed lot size, so as to aid in the assignment of numbers to structures subsequently constructed.

Section 9. Effective Date

This ordinance shall become effective as of September 29, 1998. It shall be the duty of the Selectmen to notify by mail each property owner and the U.S. Postal Service of their new address at least **60 (sixty)** days prior to the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within **60 (sixty) days** following notification. On new structures, numbering will be installed prior to final inspection or when the structure is first used or occupied, whichever comes first.

Section 10. Enforcement

- A. **Notice** – person or businesses, found not complying with this ordinance by the Selectmen, the Town Manager or the Code Enforcement Officer will be given written notice that they shall have 30 days to comply with the ordinance. This notice shall be sent through regular mail or delivered by hand by the Town Manager or the Code Enforcement Officer.

- B. Failure to Comply** - failure to comply after the 30 days notice has expired shall constitute grounds for the Town or its delegated representatives to install the necessary addressing identification. The expense thus incurred by the Town, plus all legal fees caused or made necessary by this action, will be assessed against the property owner. If the costs billed the property owner are not paid within one year a lien shall be applied against the property in the same manner as a property tax lien.

Enacted: September 29, 1998

TOWN OF CHELSEA ANIMAL CONTROL ORDINANCE

I. TITLE:

This ordinance shall be known and cited as the Animal Control Ordinance of the Town of Chelsea, Maine, and is referred to herein as "this ordinance".

II. AUTHORITY:

This ordinance is adopted pursuant to the enabling provisions of Title 30-A, MRSA § 3001 (Home Rule).

III. RELATION TO OTHER ORDINANCES:

This ordinance cancels and supersedes the "Animal Control Ordinance" which was enacted March 8, 1997 and amended June 17, 2004.

IV. PURPOSE:

The purpose of this ordinance is to require that all animals in the town of Chelsea be kept under the control of their owners at all times so that they will not injure persons, damage property or create a nuisance.

The provisions which apply to the owners of an animal apply equally to any person having its custody or possession.

It is also the Town's responsibility to prevent the spread of contagious disease and virus in relation to domesticated and undomesticated animals.

V. DEFINITIONS:

1. **Owner:** Any person owning, keeping or harboring a dog or other animal.
2. **At Large:** Any animal off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.
3. **Dangerous Dog:** Any dog which has bitten a person who was not a trespasser on the owner's premises at the time of the incident or a dog which causes a reasonable person, acting in a peaceable manner outside the owner's premises, to be put in apprehension of eminent bodily harm.
4. **Municipality:** A city, town or plantation.

5. **Nuisance:** The causing of unreasonable noise, offensive odor, litter and other property damage; the chasing of automobiles, motorcycles and bicycles or other vehicles.
6. **Leash:** A hand held device no longer than 10 feet in length.
7. **Pack:** A dog in the company of three or more other dogs.
8. **Animal:** Includes all domesticated and undomesticated animals.
9. **Rabies:** A viral disease of the central nervous system (brain and spinal cord) that is almost always fatal.
10. **Confirmed Rabid Animal:** An animal that has been confirmed by the health and Testing Laboratory using the direct fluorescent antibody (DFA) test of nervous tissue.
11. **Quarantine:** Term used to describe the period of time that a domestic animal is to remain separate and apart from other animals and humans after having bitten or otherwise exposed another domestic animal or human to rabies.
12. **Currently Vaccinated:** Domesticated animals are considered currently vaccinated for rabies if at least thirty days have elapsed since the initial vaccination and duration of vaccination has not exceeded the time period recommendation for that species based upon the type of vaccine used. A Maine "Certificate of Rabies Vaccination" or a form approved by the Commissioner of the Maine Department of Agriculture, Food and Rural Resources is proof of immunization.
13. **Suspected Rabid Animal:**
- Any mammal, undomesticated or domesticated, showing signs of rabies.
 - Any undomesticated mammal which has potentially exposed, through bite or non-bite exposure, a human or domesticated animal to rabies.
 - Any domesticated mammal which has bitten a human or domesticated animal.
14. **Undomesticated Animal:** A mammal considered to be wild by nature by the Maine Department of Inland Fisheries and Wildlife.
15. **Domesticated Animal:** A mammal accustomed to home life and tamed for man's use. A typical household pet to include, but not be limited to: dogs, cats, ferrets, wildlife hybrids and livestock.
16. **Unvaccinated Animal:** An Animal with no previous rabies vaccination, an animal whose first vaccination was given within the last thirty days, an animal whose last vaccination has expired (per vaccine manufacturer's recommendation) or an animal for which no approved vaccine exists.
17. **Wildlife Hybrid:** The offspring of a breeding between a domesticated animal and a wild counterpart. This would include but is not limited to: coydog, wild/domesticated cat hybrid and wolf/dog hybrids. These animals are considered domesticated but have no established quarantine or isolation period for the incubation of the rabies virus.
18. **Control:** To limit by reasonable means all unnecessary exposure for the suspected rabid animal to humans or to other animals.
19. **Shelter:** Any animal shelter to which the Animal Control Officer takes a stray animal that's running at large.
20. **Henhouse:** A house or shelter for fowl.

21. Chicken Pen: An outdoor fenced in area connected to a henhouse for the purpose of allowing chickens to leave the henhouse while remaining in an enclosed, predator-safe environment.

22. Enclosure: The combined area of a henhouse and chicken pen.

24. Offensive Odor: Is a smell detected beyond the boundary of a property line which over a period of 48 hours unreasonably interferes with the enjoyment of life or the use of a property by another person.

VI. ANIMALS CREATING A NUISANCE BY NOISE:

Anyone owning, possessing or harboring any animal which barks, howls or makes other sounds common to its species continuously for twenty minutes or intermittently for one hour or more shall be deemed to constitute a nuisance. **EXCEPTIONS:** Dogs barking at trespassers or threatening trespasser on private property on which dog is situated or any legitimate cause for provocation.

VII. RUNNING AT LARGE:

It is unlawful for any animal, licensed or unlicensed, to run at large except when used for hunting. Any stray or abandoned animal roaming at large shall be impounded by the Animal control Officer (ACO) and taken to a shelter. Any dog leaving the property of its owner or custodian must be on a leash of suitable strength or must be under the supervision and verbal control of its owner or custodian. Any animal in violation may be impounded by the ACO. Any animal so impounded shall be subject to Article XII (b) below or the ACO or his or her designee may take the animal to its owner, if known. However, the offender will be subject to a charge of \$20.00 for services rendered, payable to the Town of Chelsea.

VIII. CONFINEMENT OF CERTAIN DOGS:

Dogs of fierce, dangerous or vicious propensities or in heat shall be properly confined or tied by the owner or keeper in a reasonable manner to prevent harm to the public. If the owners or keepers of fierce, dangerous or vicious dogs or dogs in heat are found in violation of this section, such dogs shall be impounded and not released except on the approval of the ACO and only if all provisions of the Section entitled "Impoundment Fees" have been met.

IX. ANIMAL CONTROL OFFICER (ACO):

A suitable person shall be employed by the Town of Chelsea who shall be known as and perform the duties of Animal Control Officer. The ACO shall have the powers given to them by this ordinance. They shall be under the supervision and direction of the Town Manager. The ACO shall hold their office for such time as the Town Manager may direct and shall receive as compensation an amount as may from time to time be authorized at Town Meeting. The ACO shall be responsible for the control, regulation

and enforcement of all laws related to dogs, cats, domesticated and undomesticated animals in accordance with Title 7 MRSA Chapter 725.

X. LICENSE REQUIRED:

All dogs kept, harbored or maintained by their respective owners in the Town of Chelsea shall be licensed and tagged in accordance with the appropriate laws of the State of Maine. (7 MRSA Section 3921)

XI. LICENSING TIMING:

Beginning January 1 and no later than April 1, all dogs over the age of six months must be licensed in the Town of Chelsea by registering the dog(s) at the Town Clerk's office. Proof of a rabies vaccination must be shown to obtain a license.

XII. REGISTRY AND NOTIFICATION OF IMPOUNDMENT:

(a) When impounding any animal, the ACO or other law enforcement officer shall at the time of such impoundment, list number and description of violation(s), make a complete registry of the date of impoundment, breed, color, sex and general condition of the animal as can be reasonably ascertained, and if licensed or unlicensed, and the name of the owner or keeper if known, on a registry form. A copy of this form shall be furnished to the Shelter together with written instruction setting forth the conditions under which the animal may be released.

(b) When any animal is impounded under the provisions of this Article or Article VII, the person who has control of the shelter shall, when possible, contact the owner within forty-eight hours and report to the Town Clerk a description of the animal and its place of impoundment. If the owner does not claim said animal, then the Animal Shelter shall dispose of the animal by adoption or otherwise in a proper and humane manner consistent with applicable state laws.

XIII. IMPOUNDMENT FEES:

All owners may reclaim their animal by first licensing, if applicable, according to this ordinance, and by paying to the Shelter where animal is being held, a fee of \$25.00, for a second offense \$50.00 for a third offense and \$75.00 for a fourth offense. Impoundment fee never to exceed \$100.00 as noted in Section XVII. The Shelter shall turn over all impoundment fees to the Town of Chelsea. The Owner will also be responsible for any additional costs incurred by the animal at the Shelter prior to reclamation. All fees must be paid to Shelter prior to the release of an animal.

**XIV. DISPOSITION OF ANIMALS WHICH HAVE BITTEN HUMANS
AND/OR HAVE BEEN EXPOSED TO A CONTAGIOUS DISEASE OR
VIRAL DISEASE:**

The owner or keeper of an animal which has bitten a human or may have been exposed to a contagious or viral disease shall be served a quarantine notice. The owner or keeper shall confine and control the animal for at least ten days, forty-five days or six months or as ordered. The owner or keeper must observe and obey all written instructions and procedures included in the quarantine notice. Failure to comply with this section may result in fines or penalties described in the section entitled "Violations". Further, failure to comply with this section may result in a court ordered seizure of the animal to be placed in a state licensed facility that houses such animals. All related expenses shall be paid by the owner or keeper.

XV. ANIMALS CREATING A PUBLIC HEALTH THREAT:

The municipal health officer or their designee shall order suppression and removal of animals and conditions posing a public health threat when there is a reasonable cause to suspect the presence of a communicable disease or viral disease and the owner or keeper has failed to comply with the properly served quarantine notice.

XVI. KEEPING OF ANIMALS NOT DOGS OR CATS:

Animals kept incidental to a residential use of a property shall be kept in accordance with the following:

1. Horses, donkeys, cattle, oxen, goats, sheep, llamas, pigs and fowl (i.e. emu, ostrich, turkey, duck, geese and rooster).
 - a. Require a minimum of 80,000 square feet of land,
 - b. Farm buildings, sheds, feedlots, fenced pens used for shelter and containment shall be kept no closer than 10 feet from any property line, 100 feet from existing residences
 - c. Farm buildings, sheds, feedlots, fenced pens used for shelter and containment must be clean, dry and free of offensive odor, kept in a neat and sanitary condition at all times in a manner that will not disturb the use or enjoyment of abutters due to noise, offensive odor or other adverse impacts

At all times, animals shall be contained in suitable safe housing and pens

2. Chickens and Rabbits
 - a. No more than six (6) hens and/or rabbits kept as pets or for personal use only shall be on premises having a lot area of over 7,000 square feet up to one acre.
 - b. No more than twelve (12) hens and/or rabbits kept as pets or for personal use only shall be on premises having a lot area of one acre or more.

- c. Chickens and rabbits shall be kept in clean and secure enclosures at all times on lots less than one acre.
- d. Chickens shall be secured within a henhouse during non-daylight hours. The henhouse shall be well maintained.
- e. The outdoor slaughtering of animals is prohibited.

At all times, animals shall be contained in suitable safe housing and pens which shall meet a minimum setback requirement of 10 feet from any property line.

Any structure, feedlot or pen which is subject to the provisions of this section and which existed prior to the enactment of this Ordinance shall not be considered to be in violation of this Ordinance but shall not be expanded or relocated so as to reduce the property line setback requirements set forth in this section.

XVII. VIOLATIONS:

Any person found in violation of any provision contained in Sections VI, VII, VIII and XVI shall be subject to a fine of not less than \$25.00 and not more than \$100.00 for each offense. Any person found in violation of Sections XV and/or XVI, shall be subject to a fine of not less than \$100.00 and not more than \$1,000.00 for each offense. Any fine collected shall be recovered to the use of the Town of Chelsea. In addition to the civil penalties, the person violating this ordinance shall pay the Town's attorney's fees for the prosecution of the action. Finally, the Town may seek appropriate legal and equitable relief in a court of competent jurisdiction to enforce the provisions of the Ordinance.

XVIII. SEVERABILITY CLAUSE:

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

Approved at a Town Meeting held June 15, 2017.

*This is a true and attested copy of
the Town of Chelsea's Animal
Control Ordinance.*

*Philip J. McPartly
Town Clerk*

CHELSEA BOARD OF APPEALS ORDINANCE

1. **Establishment, Re-establishment.** The Town of Chelsea, Maine hereby establishes a Board of Appeals. The Board which has been acting as an Appeals Board is hereby re-established as Board of Appeals. The actions which it has taken prior to the adoption of this Ordinance are hereby declared to be acts of the legally constituted Board of Appeals of the Town of Chelsea, Maine.

A. **Qualifications:** To serve on the Board of Appeals a person must be 18 years old, a resident of Chelsea and a U.S. Citizen. Neither a municipal officer nor his/her spouse may be a member of the Board of Appeals. Members of the Board of Appeals shall be elected at the Town Meeting.

2. **Appointment:**

- A. Board members must be elected at the Town Meeting and sworn into office by the Town Clerk or other person authorized to administer oaths.
- B. The Board shall consist of five(5) members and two(2) alternate members.
- C. The term of each member shall be five(5) years, except the initial appointments which shall be for one(1) year term, one(1) for two(2) years, one(1) for three(3) years, one(1) for four(4) years, one(1) for five(5) years respectively. The term of an alternate member shall be 5 years. Those members currently serving shall finish their terms and may be reelected for subsequent terms.
- D. When there is a permanent vacancy, the selectpersons, within thirty(30) days of its occurrence, may either appoint a person to fill the vacancy for the remainder of the term or leave the position unfilled. A permanent vacancy shall occur upon the resignation or death of a member or the member is no longer a citizen of Chelsea or is physically unable to serve.
- E. A selectperson may not be a member or alternate member.

3. **Organization and Rules:**

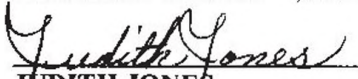
- A. The board shall elect a chairperson and vice chairperson from among its members. The board may elect a person from among its members to serve as secretary. The term of all officers of the board shall be one(1) year with the eligibility for re-election
- B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the Chairperson, the Chairperson shall designate an alternate member to sit in that members stead.
- C. An alternate member should attend all meetings of the board and Participate in the proceedings, but shall vote only when he or she has been designated by the chairperson to sit in for a member.

- D. Any question of whether a member must be disqualified from voting on a particular matter must be decided by a majority vote of the members except the member who is being challenged.
- E. The chairperson must call a meeting of the board whenever actions of the Board are required by State Statute or Town Ordinance.
- F. No meeting of the board shall be held without a quorum consisting of Three(3) members or associate members authorized to vote. The board must act by majority vote, calculated on the basis of the number of members present and voting.
- G. The board must adopt rules for transaction of business and the secretary must keep a record of its transactions, correspondence, findings and determinations. All records must be deemed public and may be inspected at reasonable times.

4. Duties and Powers:

- A. The board shall perform such duties and exercise such powers as are provided by laws of the State of Maine and Chelsea Ordinance.

ADOPTED JUNE 24TH, 2008


JUDITH JONES
TOWN CLERK

ORDINANCE TO ESTABLISH THE CHELSEA BOARD OF ASSESSMENT REVIEW

PART I

GENERAL PROVISIONS

§101 SHORT TITLE

This Ordinance shall be known and may be cited as the "Ordinance to Establish the Chelsea Board of Assessment Review".

§102 PURPOSES AND POLICIES

The Town of Chelsea has enacted this Ordinance to establish a Board of Assessment Review and to establish administrative procedures to review decisions on property tax abatements made by the Chelsea Board of Assessors. This Ordinance shall be liberally construed to effectuate its purposes and policies.

§103 AUTHORITY

This Ordinance is enacted pursuant to Article VIII Part Second of the Constitution of the State of Maine and the Laws of the State of Maine, including, without limitation: 30-A M.R.S.A. Section 2526(6) and Section 2691 and 36 M.R.S.A. Section 843.

§104 APPLICATION OF THIS ORDINANCE

This Ordinance applies only to appeals from decisions made by the Chelsea Board of Assessors on requests for property tax abatements and other determinations that are necessary with respect to tax assessments according with the general laws of the State of Maine.

The Board of Assessment Review has no jurisdiction or authority over any requests to the Selectmen for tax abatements based on infirmity or poverty.

§105 PAYMENT REQUIREMENTS FOR TAXPAYER

This section does not apply to property with a valuation of less than \$500,000.

1. If the taxpayer has filed an appeal under this Ordinance without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, provided that amount does not exceed the amount of taxes due in the current tax year, or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date, the appeal process shall be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date for payment of taxes without the appropriate amount of taxes having been paid, the appeal process shall be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid.

§106 TIME REQUIREMENTS FOR TAXPAYER

Any taxpayer whose request for property tax abatement has been denied or granted only in part by the

Chelsea Board of Assessors must file an application for review of the decision with the Board of Assessment Review pursuant to this Ordinance within sixty (60) days of the date of the decision of the Chelsea Board of Assessors. If no application for review is filed within the sixty (60) day period, the taxpayer shall have no further rights of appeal.

In accordance with 36 M.R.S.A. §842, if the Chelsea Board of Assessors before whom an application for abatement for property tax is pending fails to give written notice of its decision within sixty (60) days of the date of filing of the application for abatement, the application is deemed to have been denied and the taxpayer may proceed pursuant to this Ordinance for review of that denial.

§107 TAXPAYER TO LIST PROPERTY

Any taxpayer who fails to furnish to the Chelsea Board of Assessors a true and perfect list of all of his estates, not by law exempt from taxation, of which he was possessed on the first day of April of the tax year that he is requesting an abatement shall be barred from an abatement or an appeal under this Ordinance.

Notwithstanding this provision, a Veteran's widow or a minor child may proceed with an abatement request to the Selectmen.

§108 SEVERABILITY

If any provision or section of this Ordinance, or the application thereof to any person or circumstance, is held void or invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect in whole or in part without the invalid provision or application, and to this end each provision of this Ordinance is declared to be severable and independent. It is the intent of the Town of Chelsea that each and every part, clause, paragraph, section and subsection of this Ordinance be given effect to the degree possible.

§109 EFFECTIVE DATE

This Ordinance shall be effective upon enactment by a Town meeting of the Town of Chelsea

PART 2

§201 ESTABLISHMENT

The Town of Chelsea hereby establishes the Chelsea Board of Assessment Review. The Chelsea Board of Assessment Review is sometimes referred to herein as the Board.

§202 COMPOSITION

The Board shall consist of five (5) members and two (2) alternate members. Members of the Board and alternate members shall be residents or non-resident taxpayers of the Town of Chelsea, at least eighteen 18 years of age and citizens of the United States at all times during their terms, and shall neither be a Selectman or a spouse of a Selectman or employees of the Town of Chelsea or any of its boards, agencies or departments.

An alternate member shall attend all meetings of the Board and participate in its proceedings, but may vote only when designated by the Chairman to sit for a member. If any member or alternate member misses three (3) or more consecutive meetings of the Board then such lack of attendance may be cause for removal of such member or alternate.

When a member is unable to act because of interest, physical incapacity, absence, vacancy in the position or any other reason satisfactory to the Chairman, the chairman shall designate an alternate member to sit and vote in his or her stead.

§203 APPOINTMENT

The members of the Board and alternate members shall be appointed by the Selectmen for an initial term expiring June 30, 2012. Thereafter, the members shall be elected by nomination of the Selectmen at the annual Town meeting.

§204 TERMS OF OFFICE

Except for the first election at Town meeting, the terms of each member and alternate member shall be five (5) years. Members shall serve until their successors are duly appointed, qualified and assume their duties.

Initial Election. One member shall serve for 1 year, one member for 2 years, one member for 3 years, one member for 4 years and one member for 5 years. The Initial Election for alternates shall be one alternate for 2 years and one alternate for 3 years.

§205 VACANCIES

The Selectmen may declare a vacancy on the Board upon the nonacceptance, resignation, death, removal, permanent disability or incompetency of any member or alternate, relocation of a member's or associate's place of residence outside the State of Maine, or failure of any person to qualify for office. In such circumstances, the Selectmen shall fill all positions of members or alternate members until the next Town meeting.

§206 REMOVAL

After notice and hearing, the Selectmen may remove or dismiss any member or alternate member for cause before the member or alternate member's term expires. The term "cause" shall mean conduct or conflict affecting the ability and fitness of the member or alternate member to perform his duties including failure to attend meetings.

The notice provided hereunder shall be in writing and shall state the reasons for the proposed removal and inform the member or alternate member of his right to a hearing before the Selectmen within thirty (30) days of receipt of the notice. This hearing may be held in executive session if the requirements of 1 M.R.S.A. 405 are met or, upon request by the member or alternate member to be removed, an open meeting may be held in accordance with 1 M.R.S.A 401 et seq. and this Ordinance.

§207 OFFICERS

A. Election of Officers.

The Board of Assessment Review shall, by majority vote, elect a Chairman, Vice-Chairman and Secretary at an annual organizational meeting held in September or upon the resignation, removal or cessation of service of any of the officers, as soon thereafter as practical for the purpose of filling any vacancies. The Chairman, Vice Chairman and Secretary shall each serve a term of one year or until his or her successor is duly elected by the Board. The Chairman, Vice Chairman and Secretary may serve successive terms, if so elected.

B. Chairman.

The Chairman shall preside at all meetings, if present, shall prepare the agenda as provided in Section 209 herein, shall call special meetings and workshops when necessary, shall transmit reports, plans and recommendations of the Board to the appropriate governing authority and shall fulfill all the customary functions of his or her office. The Chairman may also administer oaths.

C. Vice-Chairman.

In the absence of the Chairman, the Vice-chairman shall act as chairman and shall have all the powers of the Chairman.

D. Secretary.

The Secretary shall assist the Chairman in preparing the agenda for Board meetings and proceedings, send out notice for meetings, public hearings and other proceedings of the Board, record, maintain and show the vote of each member on every question in which a formal recorded vote is made under the procedure of the Board or his or her absence or failure to vote, and shall maintain a permanent record of all correspondence, findings, resolutions and determinations of the Board. All records shall be deemed public and may be inspected at reasonable times unless covered by confidentiality order under Section 302. The records shall be filed in the Town Clerk's Office. The Secretary shall also make such certifications of Board action as may be required from time to time.

§208 MEETINGS, QUORUM, VOTING, AGENDA

A. Meetings.

The number of meetings of the Board shall be as provided by the rules of the Board unless a particular meeting is excused by the Chairman. The Board shall meet at least once a year in July for organizational purposes.

Meetings shall be called by the Chairman as required or any three members of the Board or by the Selectmen.

The Initial Appointees shall hold an initial organizational meeting within thirty (30) days after five members have been duly appointed to the Board. At the initial organizational meeting the Board shall elect officers who shall hold office until the July 2012 organizational meeting.

The Board may hold executive sessions as provided in the Maine Freedom of Access Act, 1 M.R.S.A. 401 et seq. otherwise all meetings, hearings, proceedings and deliberations of the Board shall be open to the public in accordance with the Maine Freedom of Access Act, 1 M.R.S.A. 401 et seq.

Workshops may be called by the Chairman or members designated by the Chairman for the presentation of information. Workshops shall be informational only, shall not be used by the Board for the weighing of positions or reasons for or against a proposition, and shall not be used by the Board for the formulation of formal decisions on any matter.

Any member of the Board may voluntarily disqualify himself or herself from voting on a particular matter for any reason, including conflict. In addition, a member shall be disqualified from voting on a particular matter for any reason by a majority vote of the members present and voting, except the member whose disqualification is at issue shall not vote on his or her own disqualification.

If there are two alternate members, the chairman shall designate which will serve in the place of the absent or abstaining member or any member who is disqualified on a particular matter.

B. Quorum and Voting.

No business shall be transacted by the Board without a quorum. A quorum shall consist of three members or alternate members authorized to vote. The Board shall act by a majority vote, calculated on the basis of the number of members present, and a meeting may be adjourned for a period not exceeding three (3) weeks at any one time. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the matter under consideration. If a member has a conflict of interest, the member shall not be counted by the Board in establishing the quorum for such matter.

C. Agenda.

No item of business or plan shall be placed on the Board agenda for any meeting unless such item or plan shall have been submitted to the Board not less than ten (10) days prior to the date of a meeting or other proceeding, provided, however, that the Board may, upon request or on its own motion, waive the 10 day advance submissions requirement. The Chairman shall determine the agenda in such a manner as to facilitate the execution of the duties of the Board.

D. Rules and Regulations.

The Board may enact, by regulations which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that the Chairman may waive any regulations upon good cause shown and the Board may make such orders as are provided for under Section 304.

§209 POWER AND DUTIES

The Board shall have the following powers and duties:

A. To exercise such powers as are provided to the Board by this Ordinance and the Constitution and laws of the State of Maine.

B. The Board may make such reasonable abatements as they consider proper to correct any illegality, error or irregularity in the assessment and grant or deny in whole or in part; the request for property tax abatement in accordance with the provisions and standards contained in this Ordinance.

C. To act fairly, independently, impartially and shall avoid ex parte communications unless otherwise subject to a confidentiality order issued by the court or duly authorized by this Ordinance, the Board shall conduct all of its proceedings, hearings, deliberations in a public forum.

D. To issue such orders as necessary to properly administer and to ensure compliance with the ordinance.

E. To administer oaths, take testimony and hold hearings.

PART 3

ADMINISTRATIVE

§301 APPLICATION PROCEDURE

A. To initiate an appeal to the Board, the applicant must file a timely written application. The application shall set forth the following:

1. Name and address of applicant.
2. A general description of the property which is the subject of the appeal. If the property includes real estate, the description shall include the Assessors' Map and Lot Number.
3. Year of disputed assessment.
4. Assessed value for the property as originally determined by the Chelsea Board of Assessors.
5. Amount of any abatement(s) previously granted by the Chelsea Board of Assessors for the assessment in question.
6. The valuation applicant alleges should have been placed on the property.
7. A brief statement of all proceedings before the Chelsea Board of Assessors concerning the disputed assessment.
8. A brief statement of the factual basis for the Applicant's tax abatement appeal.
9. A brief statement of the legal grounds for the applicant's tax abatement appeal.

§302 CONFIDENTIALITY

The Board shall keep confidential those documents which may remain confidential pursuant to the Maine Freedom of Access Law 1 M.R.S.A. Section 401 et seq. The Board shall also keep confidential information demonstrated by the person submitting it to be a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of that person and would make available information not otherwise publicly available. The Board shall make determinations of confidentiality and any person aggrieved by such determination may appeal to court in accordance with state law. The Board shall withhold disclosure of such information pending a final judicial determination on any claim of confidentiality.

§303 BOARD DECISIONS

A. Acceptable for Processing. The Board shall, within 10 days of receipt of an application, notify the applicant in writing either that the application is acceptable for processing or, if the application is not acceptable for processing, the specific additional information needed to make an acceptable application.

B. Requests for Further Information. The fact that an application is deemed acceptable for processing does not prohibit the Board from requesting further information and data deemed necessary to evaluate the application. At any time during the review of an application, the Board or staff may request any additional information that is reasonably necessary to make any finding or determinations required by this Ordinance or any other provision of law.

C. Public Hearing. Within 10 days after an application has been determined acceptable for processing, the Board shall notify the applicant in writing of the date, time and location of a public hearing, if the Board decides to hold one. The Board shall also provide public notice of the public hearing in a manner designed to inform interested and potentially interested persons.

If the Board decides to hold a public hearing, the public hearing shall take place within 20 days of the date the Board mails written notice to the applicant that an application is acceptable for processing.

D. Board Action. Within 30 days of the close of the public hearing, or any continuance hearing thereto, on an application, or within 60 days of acceptance for processing of the application if no hearing is held, or

within such other time limits as the Board may establish by order, either with the applicant's consent or for good cause after giving the applicant notice and an opportunity to be heard, the Board shall make decision in accordance with this Ordinance, in particular Section 311:

E. Written Decisions. Every decision of the Board on an application shall be in writing and shall include findings of fact, conclusions of law, a plain statement of the appropriate rights of administrative and judicial review, and the time within which those rights must be exercised.

§304 BOARD ACTIONS PRIOR TO HEARING OR FINAL DECISION

The following procedures may apply to any application pending before the Board.

A. Procedure and Scheduling Orders. In its discretion, the Board may issue scheduling orders governing all proceedings occurring between acceptance of the application for processing and final decision by the Board. Such orders may but need not necessarily include provisions directing or authorizing:

1. presentation of evidence or argument by the applicant or by members of the public;
2. opportunities for the Board or staff to seek or provide amplification or clarification of any matter under consideration by the Board;
3. particular methods or formats for the submission of information such as pre-filed testimony or affidavit;
4. procedures for participation by members of the public that have a direct and substantial interest which may be affected by the proceedings including but not limited to adequate notice of the hearing or related Board deliberations, opportunities for discovery, and manner of presentation of evidence; and
5. such other mechanisms as may in the discretion of the Board facilitate orderly consideration of the issues presented during consideration of the application.

§305 COMPUTATION AND ENLARGEMENT OF TIME

In computing any period of time provided by this Ordinance, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

When, by this Ordinance or by order of the Board, an act is required to be done at or within a specified time, the Board may within its discretion at any time order the period enlarged for a reasonable period for good cause shown.

§306 HEARINGS

A. The Board may schedule a public hearing on an application after the application is deemed acceptable for processing.

B. In the event the Board elects not to hold a public hearing the Board shall decide the matter as expeditiously as possible giving due regard to the applicant and the Chelsea Board of Assessors and within the time limits contained in this Ordinance.

C. At a reasonable time prior to the public hearing, the Board shall cause notice of the date, time and place of such hearing, the location of the building or lot, and the general nature of the question involved, to be given to the person making the application and to be published in a newspaper of general

circulation in Chelsea. The Board shall also cause notice of the hearing to be given to the Chelsea Board of Assessors and the applicant.

D. The Board shall provide as a matter of policy for exclusion of irrelevant, immaterial, or unduly repetitious evidence.

E. The order of business at a public hearing shall be as follows:

1. The Chairman calls the hearing to order.
2. The Chairman determines whether there is a quorum.
3. The Chairman gives a statement of the case and submit all correspondence and reports received to the record of the proceeding.
4. The Board determines whether it has jurisdiction over the appeal.
5. The applicant is given the opportunity to present his or her case.
6. The Assessors are given the opportunity to present its case.
7. The Board may call its own witnesses.
8. The applicant may ask questions of the all witnesses.
9. The Assessors may ask questions of all witnesses.
10. The Board may ask questions of all witnesses.
11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
12. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time and place of the continued hearing.
13. Written testimony may be accepted by the Board for seven days after the close of the hearing.

F. The Chairman may waive any of the procedures in this Section if good cause is shown.

§307 GENERAL EVIDENCE

A. Admissibility. Evidence which is relevant and material to the subject matter of the hearing and is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible. Evidence which is irrelevant, immaterial or unduly repetitious shall be excluded. The Board's experience, technical competence and specialized knowledge may be utilized in the evaluation of all evidence submitted to the Board.

B. Official Notice. The Board may take official notice of any facts of which judicial notice could be taken, and in addition may take official notice of general, technical or scientific matters within its specialized knowledge and of statutes, regulations and nonconfidential Board records. Facts officially noticed shall be included and indicated as such in the record.

C. Official Record. An official record or lack thereof may be evidenced in the manner provided in Rule 44

of the Maine Rules of Civil Procedure.

D. Objections. All objections to rulings of the Chairman regarding evidence or procedure and the grounds therefore shall be timely stated during the course of the hearing. If during the course of, or after the close of, the hearing and during its deliberations the Board determines that the ruling of the presiding officer was in error, it may reopen the hearing or take such action as it deems appropriate to correct such error.

E. Offer of Proof. An offer of proof may be made in connection with an objection to a ruling of the presiding officer excluding or rejecting any testimony or question on cross-examination. Such offer of proof shall consist of a statement of the substance of the proffered evidence or that which is expected to be shown by the answer of the witness.

§308 DOCUMENTARY AND REAL EVIDENCE

A. Exhibits and Evidence. All documents, materials and objects offered in evidence as exhibits, shall, if accepted, be numbered or otherwise identified. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. The Chairman may require, after prior oral or written reasonable notice, that any person offering any documentary or photographic evidence shall provide the Board with a specified number of copies of such documents or photographs, unless such documents or photographs are determined to be of such form, size or character as not to be reasonably suitable for reproduction.

B. Availability. All written testimony and documents, materials and objects admitted into evidence shall be made available during the course of the hearing for public examination. All such evidence will be available for public examination at the Town Office during normal business hours.

C. Record of Application. In any proceeding involving an application, the application filed with the Board, including exhibits and amendments thereto, shall be placed into evidence.

§309 RECORD

The record upon which any Board decision is to be made shall consist of the application, proposed findings of fact and conclusions, all documentary and real evidence properly submitted and received by the Board, all testimonial evidence whether pre-filed or delivered in person which has been admitted by the Board and, if prepared, the recording or transcript of the proceedings. The record shall remain open for other evidence or testimony for seven (7) days following the close of any public hearing unless otherwise provided by the Board, and if no public hearing is held, then according to Board scheduling order. Once the record has been formally closed, no further evidence of any kind may be placed in the record except by order of the Board and after appropriate notice is given.

§310 STANDARDS OF REVIEW AND BURDEN OF PROOF

A. Standard of Review.

In making the decision, the Board shall follow the following standards and definitions.

1. Constitutional Standard:

All taxes upon real and personal estate, assessed by authority of this State shall be apportioned and assessed equally according to the just value thereof.

2. "Just value defined":

In the assessment of property. Board in determining just value is to define this term in a manner which recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put. In determining just value. Board must consider all relevant factors, including without limitation, the effect upon value of any enforceable restrictions to which the use of the land may be subjected, current use, physical depreciation, functional obsolescence, and economic obsolescence. Restrictions shall include but are not limited to zoning restrictions limiting the use of land, subdivision restrictions and any recorded contractual provisions limiting the use of lands. The just value of land is deemed to arise from and is attributable to legally permissible use or uses only.

For the purpose of establishing the valuation of unimproved acreage in excess of an improved house lot, contiguous parcels divided by road, power line or right-of-way may be valued as one parcel when: each parcel is 5 or more acres; the owner gives written consent to the assessors to value the parcels as one parcel; and the owner certifies that the parcel are not held for sale and are not subdivision lots.

3. Just value equals fair market value.

Fair market value for purposes of assessments is defined as: the amount a willing buyer would pay and a willing seller would accept where both have reasonable knowledge of relevant facts and neither is under compulsion to enter into the transaction.

B. Burden of Proof. There is a presumption in favor of the validity of the assessment. In all instances in proceedings before the Board the burden of proof is upon the taxpayer. To obtain an abatement a taxpayer must show the original assessment is manifestly wrong. The taxpayer must prove that:

1. the judgment of the assessors was irrational or so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results;
2. there was unjust discrimination; or
3. the assessment was fraudulent, dishonest or illegal.

§311 DECISIONS

A. If the Board fails to give written notice of its decision within sixty (60) days of the date the application is filed, unless the applicant agrees in writing to extend the time, the appeal shall be deemed denied.

B. Decisions by the Board shall be made not later than thirty (30) days from the date of the final hearing unless the Board and the applicant agree to an extension of time.

C. The final decision on any matter before the Board shall be made by written order signed by the chairman and shall include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief.

D. The Board, in reaching a decision, shall be guided by standards specified in the applicable state laws, this ordinances, and by findings of fact by the Board in each case.

E. The Board may reverse the decision, or failure to act, of the Chelsea Board of Assessors only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this ordinance or unsupported by substantial evidence in the record.

F. Notice of the decision shall be mailed or hand delivered to the applicant or the applicant's representative or agent and Chelsea Board of Assessors within seven (7) days of the decision. The notice of decision shall state that the applicant has 60 days from the date the decision is received to appeal, in accordance with §313 of this Ordinance.

G. The decision of the Board shall be filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official record and minutes of the Board.

§312 RECONSIDERATION

A. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within 30 days of its original decision. A meeting to decide whether to reconsider shall be called by the Chairman. The Board may conduct additional hearings and receive additional evidence and testimony.

B. Reconsideration should be for one of the following reasons:

1. The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based; or
2. The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.

§313 APPEAL

A. Time Limits

An appeal from a decision of the Board shall be within sixty (60) days after notice of decision or after the application is deemed to be denied.

B. Assessors and Nonresidential Property or High Valued Property

"Nonresidential Property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with commercial, industrial or business use.

"High Valued Property" means property with an equalized municipal valuation of \$1,000,000 or greater either separately or in the aggregate.

The Assessors or the Nonresidential Property owner or the High Valued Property owner shall appeal from a decision of the Board to the State Board of Property Tax Review.

C. Assessors and All Other Taxpayers

Either the Assessors or any taxpayer except those taxpayers defined in paragraph B above shall appeal from a decision of the Board to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

A true copy:
Attest


Scott M. Tilton Town Clerk

CHELSEA AUTOMOBILE GRAVEYARD/AUTOMOBILE RECYCLING AND JUNKYARD LICENSING PERMITTING ORDINANCE

*** Ordinance additions are underlined. Deletions have been struck out. ***

SECTION 1. PURPOSE

The purpose of this ordinance is to provide adequate controls to ensure that automobile graveyards, automobile recycling businesses and junkyards do not have a deleterious impact on the Town's health, safety, and general welfare.

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to 30-A MRSA, Section 3001 et seq, and Section ~~3734~~ 3751 et seq.

SECTION 3. APPLICABILITY

This Ordinance shall apply to the ~~licensing and relicensing~~ permitting and re-permitting of all automobile graveyards, automobile recycling businesses and junkyards as defined in 30-A MRSA, Section 3752 and as further defined in this Ordinance.

SECTION 4. DEFINITIONS

Automobile graveyard.

"Automobile graveyard" as defined in 30-A, MRSA, Section 3752, means a yard, field or other outdoor area used to store 3 or more ~~unserviceable discarded worn out or junked motor vehicles~~ unregistered or uninspected motor vehicles, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

A. ~~The term~~ "Automobile graveyard" does not include:

- (1) ~~Any~~ An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business ~~which~~ that is primarily engaged in doing ~~auto-body vehicle~~ repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;
- (2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A, and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

- (3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
- (4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, Chapter 5;
- (5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;
- (6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;
- (7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or
- (8) An area used for the parking or storage of operational commercial motor vehicles, special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

Automobile Recycling Business

"Automobile Recycling Business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 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 basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph, is used for automobile recycling operations.

An "Automobile Recycling Business" does not include:

- (1) Financial Institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;
- (2) Insurance companies licensed to do business in the State;
- (3) New vehicle dealers, as defined in Title 29-A section 851, licensed to do business in the State;
- (4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this sub-paragraph, the vehicle must be removed from site within 180 days of receipt of title by the business.

Junkyard. "Junkyard", as defined in 30-A MRSA, Section 3752, means a yard, field or other area used to store:

- 1) Discarded, worn-out or junked plumbing, heating supplies, household appliances and or furniture;
- 2) Discarded, scrap and junked lumber;
- 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, and

complies with the standards of operation applicable at the time of issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business. Any automobile graveyard or junkyard established in Chelsea after the effective date of this Ordinance must also receive Site Plan Review approval by the Chelsea Planning Board pursuant to the Chelsea Site Plan Review Ordinance.

SECTION 6. ADMINISTRATION

- 6-1 This Ordinance shall be administered by the Selectmen or the Code Enforcement Officer. No automobile graveyard, automobile recycling business or junkyard permit shall be issued unless the provisions of this Ordinance are met.
- 6-2 Upon receipt of an application, the Selectmen shall hold a public hearing regarding the licensing permitting of the automobile graveyard, automobile recycling business or junkyard in accordance with 30-A MRSA, Section 3754. The Selectmen shall mail a copy of the application to the Maine Department of Transportation at least 7 and not more than 14 days before the hearing in accordance with State Law.
- 6-3 Permits shall be renewed annually by January of each year to remain valid ~~reissued~~ for automobile graveyards and junkyards on a yearly basis beginning on October 1, 2007 to remain valid. The Selectmen shall annually inspect or cause to be inspected the site of the automobile graveyard or junkyard to ensure that the provisions of this Ordinance and applicable State Law Statute are complied with. Automobile recycling permits shall be issued on a five-year basis. The holders of automobile recycling permits are required to apply once every five years for the issuance of a permit by the Town and to sign sworn statements each year on the anniversary of permit issued that the recycling business is being operated in full compliance with Town Ordinance and State Statutes.
- 6-4 The selectmen shall collect in advance from the applicant a \$60.00 fee for ~~each permit for a automobile graveyard or junkyard, plus all costs associated with posting or publishing notice of public hearing, first time automobile graveyard or junkyard applications. On reissued permits for automobile graveyard or junkyard applications the fee will be \$50.00 per year payable at the time of permit application submittal. The fee for first time automobile recycling applications will be \$260.00 for a 5-year permit. On reissued permits for automobile recycling businesses the fee will be \$250.00 payable at the time of permit application submittal. The selectmen shall collect a \$100 fee for any after the fact permit issued. An after the fact permit for existing junkyards or automobile graveyards is any permit issued in response to an application submitted on or after January 1. For junkyards or automobile graveyards established after January 1 of the current year, an after the fact permit is any permit issued in response to an application submitted after the junkyard or automobile graveyard has come into existence.~~

SECTION. 7 Limitations on graveyard, automobile recycling business and junkyard permit

A: Highways; Interstate System and Primary System. A permit may not be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:

- (1) Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway and abutting property lines at all times by natural objects, plantings or fences. Screening required by this paragraph must be:

- (a) At a height, density and depth sufficient to accomplish complete screening from ordinary view.
- (b) Well constructed and properly maintained at a minimum height of 6 feet;
- (c) Placed outside of the highway right-of-way; and
- (d) Acceptable to the municipal officers.
- (e) Screening of vehicles from view of abutter's property line is not required if the applicant receives a written waiver from the abutter and submits the same with applicant.
- (f) Screening requirements do not apply to the display of vehicle parts, which are neatly displayed on display racks, being offered for sale to the public as replacement body panels etc.

B: Limitations on new permits. A permit may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway.

(1) PUBLIC FACILITIES. A new permit may not be granted for an automobile graveyard, auto recycling business or junkyard that is:

- (a) Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and
- (b) Within ordinary view from a facility under paragraph A.
- (c) A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery, public building, public playground or park that existed on the date the permit was issued.

(2) PUBLIC AND PRIVATE WATER SUPPLIES.

A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operators abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753. Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this Sub Section and handling junk, scrap metals, vehicles or other solid waste within 300 feet of wells that serve as public or private water suppliers may continue to operate in those locations under the terms of those permits. Municipal officers may reissue a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs and there is no evidence of contamination of the well.

SECTION 8. (Formerly section 7) SUBMISSION REQUIREMENTS

Any application for an automobile graveyard ~~or~~, junkyard or recycling permit shall contain the following information:

- ~~7.1~~ (1) The property owner's name and address and the name and address of the person or entity ~~who~~ that will operate the site.
- ~~7.2~~ (2) A Site Plan ~~drawn to scale not to exceed 1" = 100', on which is shown:~~, Including:

- a) ~~The boundary lines of the property;~~ Property Boundary Lines and name and address of all abutters
- b) ~~the soils, as mapped on a comprehensive soils survey prepared by the Soil Conservation Service or as mapped by a certified soil scientist or other competent professional;~~ A description of soils on the property;
- c) ~~The location of any sand or gravel aquifer recharge area, as mapped by the Maine Geological Survey or a licensed geologist;~~
- d) ~~The location of any residences, school, public parks, public playgrounds, public bathing beaches, churches or cemeteries cemetery within 500 feet of the area where motor vehicles the vehicles or parts thereof, or items of junk will be stored;~~
- e) ~~The location of any waterbodies or watercourses~~ body of water on the property or within 200 feet of the property lines.
- f) ~~The boundaries of the 100-year flood plain;~~ and
- g) ~~The location of all roads within 1,000 feet of the storage site;~~
- h) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires;
- i) The location within property boundary lines where vehicles are drained, dismantled or stored.
- j) The location of all private and or public wells within 500 feet of the location where vehicles or parts thereof, or items of junk will be stored.
- k) The location of the building required to be used to store all vehicle fluids, batteries and any other items required by this ordinance or State Statute.

SECTION 9 (Formerly section 8) PERFORMANCE OPERATION STANDARDS

~~The following performance standards are required of all automobile graveyards and junkyards, whether new or existing. The selectmen shall not issue a license to operate an automobile graveyard or junkyard unless the applicant can positively demonstrate that each and every of the following performance standards have been and will be met.~~

~~8.1 Coordination with Site Plan Review. Where applicable, the facility has received Site Plan approval by the Chelsea Planning Board, and the operation of the automobile graveyard or junkyard is in complete compliance with any Site Plan Review approved by the Chelsea Planning Board for the facility.~~

~~8.2 Aquifer location prohibited.~~

~~8.3 Flood Plain location prohibited. No vehicle or junk shall be located within a 100 year flood plain.~~

~~8.4 Storage/Handling of engine fluids. Upon receiving a motor vehicle, the battery shall be removed and located in such a way as to ensure the battery's contents will not spill onto the ground. When any engine lubricant, transmission fluid, brake fluid and/or engine coolant is removed from a vehicle, those fluids shall be drained into watertight containers which shall be kept covered and secured by containment in a storage building designed to contain spills. Any engine fluids which are not being temporarily stored shall be recycled or disposed of according to all applicable federal and state laws. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.~~

~~8.5 Noise impact. To reduce the impact of noise, all mechanized sorting or baling of materials or dismantling or crushing of motor vehicles shall be done after 7 a.m. and before 6 p.m. Mondays through Saturdays. All mechanized dismantling of vehicles shall take place in a building.~~

~~8.6 Setback from public areas. No vehicle or junk shall be located within 500 feet of any public park, public playground, public bathing beach, school, church or cemetery.~~

8.7 Setback from waterways. No vehicle or junk shall be located within 300 feet of any waterbody, watercourse, or wetland.

8.8 Road/property line setback. No vehicle or junk shall be located within 1000 feet of a public road or abutting property line except for an automobile graveyard or junkyard entirely screened from ordinary view from that public road or abutting property line at all times in accordance with the screening standards in Section 8.10 of this Ordinance. In no event shall the automobile graveyard or junkyard be located closer than 100 feet from a public road. The selectmen may issue a permit for a junkyard or automobile graveyard which lies within the ordinary view of an abutting property line provided the applicant has submitted a written waiver from this protection signed by the abutting property owner within 30 days of the date of application. These setback provisions shall apply to temporary or permanent storage areas for any vehicles or junk, but shall not apply to the fences or screening which may be established to keep the facility screened from ordinary view, except such fences or screening must be outside the public road right of way. For the purposes of this Ordinance, the term "from a public road" shall mean from the outside edge of the road right of way.

8.9 Visual impact. Vehicles of junk shall be located in such a way so as not be in ordinary view from any public road or abutting property line. This standard can be met through storage set back or screening or a combination thereof.

All Automobile graveyards, junkyards and automobile recyclers permitted pursuant to section 3753 are required to comply with the following standards:

- 1) All fluids, including, but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or unto a body of water.
- 2) A vehicle containing fluids may not be stored or dismantled:
 - (a) Within 100 feet of any body of water or freshwater wetland as defined by Title 38, Section 436-A, Subsection 5.
 - (b) Within a 100 year flood plain, or
 - (c) Over a mapped sand and gravel aquifer.
- 3) Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into inland waters or tidal waters of the state or on the ice of inland waters or tidal waters in such a manner that they fall or be wasted into these waters.
- 4) Junkyard, automobile graveyard and recycle owners must demonstrate at the time of permitting that the Facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility, or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade.
- 5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicles title or bill of sale and the date or dates upon which the fluids, refrigerant, batteries and mercury switches were removed.
- 6) All fluids, refrigerant, batteries and mercury switches must be removed from the motor vehicle that lacks of engines or other parts that render the vehicles incapable of being driven under their own power or that are otherwise incapable of being driven under their own motor power, appliances and

other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable.

- 7) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.
- 8) All fluids refrigerant, batteries and mercury switches must be removed from the vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable.
- 9) Records shall be kept showing the dates vehicles were received and the dates that fluids and other parts have been removed from the vehicles.

SECTION 10 (Formerly Section 9) Enforcement RULES

~~This Ordinance shall be enforced by the selectmen or the Code Enforcement Officer. Any violation of this Ordinance shall also be deemed a nuisance within the meaning of 17 MRSA, Section 2802 and any violator shall be subject to the penalties set forth in 30-A, MRSA, Section 4452 and any other remedy available at law. Violation of any condition, restriction or limitation inserted in a permit by the selectmen is cause for revocation of that permit by the selectmen. The revocation process shall be conducted in accordance with the notice and hearing provisions found in 30-A MRSA, Section 3758(3).~~

A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, Chapter 9. Municipal officers may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the provisions of Title 29-A, Chapter 9 within 90 calendar days of the issuance of the municipal or county limited-term permit.

- (1) After October 30, 2005, municipal officers may reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that:
 - (a) A notice of intent has been filed with the Department Of Environmental Protection to comply with the general permit provisions for storm water discharges; or
 - (b) The Department of Environmental Protection has determined that a storm water permit is not required.

SECTION 11 VIOLATIONS:

- 1) **Municipal Authority:** Municipal officers or their designees may enforce the provisions of this ordinance pursuant to:
 - a) The enforcement of land use laws and ordinances under Section 30-A§4452
 - b) The letter control provisions of Title 17, Chapter 80
 - c) The abatement of nuisance provisions of Title 17, Chapter 91.
 - d) A municipal official such as a municipal officer or code enforcement officer may enter any property at a reasonable time to inspect the property for compliance with this ordinance. Such entry is not a trespass.

- 2) Violations of this subchapter are subject to the penalty provisions of 30-A MRSA 4452, Title 17, sections 2264-A and 2264-B; or Title 17, Chapter 91.

Each day that violation continues constitutes a separate offense.

3) Abatement.

If the municipality is the prevailing party in an action taken pursuant to the provisions of this Title or Title 17 as outlined in subsection 2 and the violator does not complete any ordered correction or abatement in accordance with the ordered schedule, the municipal officers or designated agent may enter the property and may act to abate the site in compliance with the order. To recover any actual and direct expenses incurred by the municipality in the abatement of the nuisance, the municipality may:

- a) File a court action against the owner to recover the cost of abatement, including the expense of court costs and reasonable attorney's fees necessary to file and conduct the action.
- b) File a lien on real estate where the junkyard, automobile graveyard or automobile recycling business is located; or
- c) Assess a special tax on real estate where the junkyard, automobile graveyard or automobile recycling business is located. This amount must be included in the next annual warrant to the tax collector of the municipality, for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, Section 505 in the year which the special tax is assessed accrues on all unpaid balances of the special tax beginning on the 60th day after the commitment of the special tax to the collector. The interest must be added to and becomes part of the tax.
- d) **Revocation or Suspension of Permit.** Violation of any condition, restriction or limitation inserted in the permit by the municipal officers is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing and the notice must state the time and place of the hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit. The municipal officers shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State Bureau of Motor Vehicles at least 7 days before the hearing.
- e) **Removal of all materials after permit denial or revocation.** The owner or operator of a junkyard, Graveyard or automobile recycling business for which a permit has been denied or revoked shall, not later than 90 days after all appeals have been denied, begin the removal of all vehicles, vehicle parts and materials associated with the operation of that junkyard, automobile graveyard or automobile recycling business. The property must be free of all scrapped or junked vehicles and materials not later than 180 days after denial of all appeals. An alternative schedule for removal of junk or vehicles may be employed if specifically approved by the municipal officers.

SECTION 12 (Formerly Section 10) EFFECTIVE DATE AND AMENDMENT

This ordinance shall become effective on the date of adoption ~~and may be amended~~ or amendment by vote of the town meeting.

SECTION 13 (Formerly Section 11) SEVERABILITY AND CONFLICT

In the event that any provision of this Ordinance is ruled to be invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect. In the event that any ~~provision of this Ordinance~~ section conflicts with State Statute or any other provision of any other Chelsea Ordinance, the more demanding provision shall apply.

Enacted March 21, 1995

Amended June 14, 2007

Town of Chelsea Building Permit Ordinance

That it shall be unlawful to construct a new building or alter any existing building without having first secured a building permit.

1. On all new construction the fee shall be \$25.00 (plus \$.10 per sq. foot of gross floor area).

A. Building Permits will also be required for swimming pools, both permanent in ground and temporary above ground when the pools are designed to contain over 24" of water.

B. All mobile homes or house trailers are subject to the same restrictions and conditions outlined above.

1. Before any building permit may be issued for new construction, remodeling, or moving a mobile home or a house trailer to a new location requiring plumbing, a Plumbing Permit must be obtained.

2. On remodeling, the first \$1000 will be exempt, there after the fee will be \$25.00.

3. Failure to obtain a Building Permit shall result in double fees being charged; if the permit is not then obtained within 3 business days of written notice being hand delivered, or verified by postal return receipt, an additional penalty will be charged at the rate of \$25.00 per day until the permit is obtained. All mobile homes or house trailers are subject to the same restrictions and conditions outlined above. Before any Building Permit may be issued for new construction, remodeling, or moving a mobile home or a house trailer to a new location involving plumbing, a Plumbing Permit must be obtained.

Building Permits must be obtained at the Town Office from the Code Enforcement Officer.

4. A sketch of the proposed structure or addition to the structure, showing the distance to the front right-of-way line, the rear and side property lines is required prior to building permits being reviewed by the Town. Please draw in the required sketch on the back of Page 2 - "Minimum Setbacks Sheet".

5. This ordinance may be enforced by the Code Enforcement Officer or Town Attorney.

6. Definition:

A. **Structure:** All buildings, towers, swimming pools, both in ground and above ground when the pools are designed to contain over 24" of water, fences over 8ft. in height.

June 11, 2015

B. **Gross Floor Area:** The sum of the gross area of the several floors of a building or buildings (including accessory buildings) measured from the exterior faces or exterior wall, and specifically includes stairwells and elevator shafts, interior balconies and mezzanines, finished basements and basements used for dwelling or commercial purposes, attic space with structural head room of 7-1/2 feet or more, and any other floor space not specifically excluded. Gross floor area does not include, uncovered steps, space used for mechanical equipment, attic space with less than 7-1/2 feet of structural headroom, unfinished cellars not used for commercial purposes or as part of the living area of a dwelling.

C. **Remodeling:** Alterations to an existing structure that will not increase the square footage of livable space.

Amended: Building Permit Ordinance June 21, 2001

Amended: June 24, 2008

Amended: June 11, 2015

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

TOWN OF CHELSEA

CEMETERY ORDINANCE

2015

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

TABLE OF CONTENTS

I.	Organization	
A.	Superintendent	3
B.	Sexton	3
C.	Cemetery Committee	4
D.	Cemeteries	4
II	Financial Matters	
A.	Budget	4
B.	Sale and use of lots	5
C.	Fees	5
	Re-sale of lots	6
D.	Perpetual Care	6
E.	Trust Funds	7
	1. General sale of lots	7
	2. Perpetual Care lots	7
	3. Perpetual care transferred from Cemetery Associations	7
	4. Cemetery Associations funds accepted by Town in Trust	7
III.	Records & Maps	7
IV.	Grounds & Maintenance	8
V.	Veterans Graves	8
VI.	Interments	9
VII	Stones & Monuments	9
VIII	Rules & Regulations	10
IX.	Penalties	11
X.	Severability	11
XI.	Repeal conflicting Ordinance	11
Appendix A		
	Part I: Cemeteries in the Town of Chelsea	12-13
Appendix B		
	Perpetual Care Trust Funds	14
Appendix C		
	Cemetery Trust Funds	15

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

CEMETERY ORDINANCE for the TOWN OF CHELSEA, MAINE

June 2015

Purpose:

- ✦ This ordinance is for the purpose of regulating the operation and use of public cemeteries and documentation and use of Trust Funds held by the Town of Chelsea.

I. ORGANIZATION:

A. SUPERINTENDENT OF CEMETERIES

- ❖ Appointment: The Town Manager of the Town of Chelsea shall be the superintendent of the cemeteries. The superintendent may appoint a deputy superintendent upon approval of the Board of Selectmen and compensation of such deputy must be voted and approved by the majority of the Board of Selectmen.
- ❖ Responsibility: The superintendent shall be responsible for overseeing all aspects of cemetery management within the Town and seeing that this ordinance is enforced.
- ❖ Duties: The employment of individuals, subject to the approval of the Board of Selectmen, as may be required to adequately maintain the cemetery grounds.

B. SEXTON

- ❖ Appointment: The sexton shall be appointed by the Board of Selectmen for a three (3) year term. Each term shall commence at the beginning of the Town's fiscal year. The appointment shall be made from a list of nominees provided by the Superintendent and the Cemetery Trustees.
- ❖ Responsibility: The Sexton shall be directly responsible to the Superintendent.
- ❖ Duties: The Sexton shall prepare and keep updated plot maps of each cemetery; supervise all interments, including opening and closing of each grave site; supervise removal of bodies from graves; and prepare an accounting of all cemetery activities for inclusion in the annual town report. The sexton may be the 'grave digger' and if not, shall recommend to the Board of Selectmen a person for that position.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

C. CEMETERY COMMITTEE

- ❖ Appointment: The Board of Selectmen shall appoint a five member Cemetery Committee. The term of each member shall be for three years or until the member's successor is appointed. Each member shall be a resident of Chelsea with a knowledge and passion for cemeteries and their history. In the event that there is a need to make changes to this process, the Board of Selectmen shall make all appointments according to their discretion without being in conflict with this ordinance.
- ❖ Responsibility: The Cemetery Committee is directly responsible to the Superintendent.
- ❖ Duties: The Cemetery Committee shall act as Trustees to the town's cemeteries. They shall monitor all aspects of the management of the cemeteries and advise the Superintendent of needed improvements; nominate Sexton(s) for appointment by the Board of Selectmen; and act as an advisory board when needed.
- ❖ Meetings: The Cemetery Committee shall hold at least four regular meetings each year. The times of these meetings shall be established by the Committee and the Superintendent. The Committee may hold additional meetings as necessary.

D. CEMETERIES

- The tracts of land situated in the Town of Chelsea, purchased by the Town or acquired by the Town, as by their several deeds, or owing to 'responsibility of care' such as an old burial ground. These tracts are set apart and appropriated by the Town of Chelsea for the burial of the dead, with each area known by names listed in **appendix A** and new lands to be known by names given each by the majority vote of the Board of Selectmen of the Town of Chelsea upon recommendations from the Cemetery Committee.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

II. FINANCIAL MATTERS

It is intended that the town support the maintenance of the cemeteries through a combination of tax revenues, gifts, donations and the interest on the Trust Funds.

A. BUDGET

- The Town Manager and the Cemetery Committee shall annually prepare a recommended budget for the operation of the cemeteries within the Town for the following fiscal year. The Town Manager shall use the budget recommendations as a guide in the preparation of the cemetery appropriation portion of the budget to be recommended for consideration by the Town Meeting. The Town Manager shall also include in the budget recommendation an estimated revenue, the amount of interest projected to be earned during the current fiscal year by the Trust Funds described in Section II, E of this ordinance.

B. SALE of GRAVE SITES/LOTS

- The Town will sell cemetery lots at prices stated in Section II. C. 1. of this ordinance, to residents of Chelsea only. A resident is defined to be a person living within the Town of Chelsea at the time of the purchase of the lot. The Town shall issue a certificate of ownership of the lot(s) along with a map showing the location of such lot(s) and a copy of this Cemetery Ordinance. *Request for exception will be reviewed by the Cemetery Committee and Board of Selectmen.

C. FEES

- The following schedule of fees and charges is in effect and applicable to all cemeteries where lots are still available. These fees and charges are subject to change without notice at such time as the Board of Selectmen may deem necessary.

(1) Perpetual Care lot purchase price:

Full Lot (4 graves)	\$ 1,300
Half lot (2 graves)	\$ 700.
One grave site	\$ 400.
Each addition lot >4 graves	\$ 500.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

- **Fees:** Fees for lots and perpetual care shall be determined by the Board of Selectmen following recommendation by the Superintendent and Cemetery Committee. If changes are made, they will then be considered an amendment to this ordinance by virtue of an appendix. In accordance with Maine Cemetery Law Article 13, section 1306: A Cemetery Perpetual care fund must be created by depositing in the fund at least 30% of the proceeds received from the sale of lots and plots in the cemetery. See Section II. D. All expenditure shall be approved by the trustee's and approved in the same manner as any other town expenditure and according to the laws of the State of Maine.
- **Re-sale of lots:** Sale of lots by the owner to any other person or entity is prohibited. However, the Town may purchase unused lots from an owner who no longer requires the space. The price paid by the Town will be the original price paid to the Town for the lot(s).

D. PERPETUAL CARE

The term perpetual care means the obligation which the Town assumes for furnishing such care as mowing grass, trimming, raking and cleaning lots. It is understood that such expenditures shall be made at the discretion and under the direction of the Superintendent and the Cemetery Committee. Perpetual care funds are Trust Funds and shall be invested according to Maine State Law Article 5, section 1223, and the annual income (interest) only shall be expended in performance of the requirements of the trust.

E. TRUST FUNDS

Perpetual Care Trust Funds shall be established according to the laws of the State of Maine and this Ordinance by the Town Treasurer who shall maintain an accurate accounting thereof. The Treasurer shall see that a detailed report of the Trust Funds is published in the annual report for the fiscal year ending June 30, 2015 and every year thereafter. All funds received from the sale of perpetual care services shall be placed in a special Perpetual Care Fund, invested in compliance with the laws of the State and used for the purposes herein provided. The income (interest only) from the Perpetual Care Funds shall be used to pay the upkeep of the cemeteries as specified by this Ordinance.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

The **Trust Funds** shall consist of four subsections, namely:

1. The sale price of gravesites. The proceeds from the sale of lots received subsequent to the adoption of this ordinance shall be deposited in a General Cemetery Fund account, previously known as the 'Town of Chelsea's Cemetery System General Fund Account'. The Treasurer shall be required to show in the account only the cumulative total of receipts, and not the individual amount or names of persons purchasing such gravesites.
2. The principal amount received for establishing perpetual care. The Treasurer shall maintain a complete listing of perpetual care lots. The listing shall include the owner's name, the principal amount of the donation/fee and the name of the cemetery wherein each lot exist, with the lot number when that is available. The listing shall include all perpetual care lots existing at the effective date of this ordinance plus all lots for which perpetual care donations/fees are received subsequent to such effective date. A lot (single burial site) may be designated as a perpetual care lot upon receipt of a donation/fee in the amount established by the Town. The Board of Selectmen may accept these perpetual care donations on behalf of the inhabitants of the Town of Chelsea.
3. Trust funds for perpetual care previously held in trust by Cemetery Associations within the Town before being turned over to the Town of Chelsea. The interest only from these accounts may be used to provide perpetual care for those designated lots according to name and location as established at the time of the trust. Reference Maine Revised Statutes 1223 Investment of funds states: "the annual income only shall be expended in performance of the requirements of the trust". These perpetual care Trust Funds are listed in **Appendix B** of this ordinance.
4. Cemetery Association funds accepted by the Town of Chelsea in Trust when turned over to the Town by Cemetery Associations as listed in **Appendix C**. The interest from these accounts shall be used for maintenance for the cemeteries specific to each trust fund account as recommended by the Cemetery Committee and approved at a Town Meeting.

III. RECORDS & MAPS

- The Superintendent shall see that a record system is established to provide up to date records of interments, lot owners, and trust funds along with up to date plot maps. These records shall be kept safe and protected in the Town Office.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

IV. GROUNDS MAINTENANCE

- All lots within each cemetery shall be mowed and trimmed during the summer season as required. The Superintendent shall insure that adequate contractual agreements are in force to provide for sequential maintenance. Additional grounds maintenance and improvements such as gates, fencing, shrubs, and posting of signs shall be accomplished by direction of the Superintendent within the limits of available budget considerations and as recommended by the Cemetery Committee.

V. Veterans' Graves

- See Maine Revised Statutes, Title 13, Section 1101

A municipality in which a public burying ground is located may, in collaboration with the property owners (privately owned cemeteries), veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, adopt standards of good condition and repair to which grave sites of veterans of the Armed Forces of the United States must be kept. The standards at a minimum must detail how to maintain the grave, grass and headstones.

The standards for the Town of Chelsea at a minimum are as follows:

- A. From May 1st to September 30th of each year, ensure that grass is suitably cut and trimmed.
- B. Keep a flat grave marker free of grass and debris.
- C. Keep the burial place free of fallen trees, branches, vines and weeds.

Annually, on the day Memorial Day is observed, the graves of veterans of the Armed Forces of the United States of America shall be decorated with an American flag and appropriate flag holder.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

VI. INTERMENTS

- 1) Permit for burial. The person in charge of burial grounds shall submit a disposition permit with the date the body was interred to the Town Clerk of Chelsea or the State Registrar of Vital Statistics within seven (7) days after the date of disposition. [22 MRSA, Section 2843, dated 2013]
- 2) No lot shall be used for any other purpose than for the burial of the human dead.
- 3) The interment of two bodies in one single grave space will not be allowed, except in case of mother or father and child, twin children or two children buried at the same time or in one casket, or three cremated remains or one full burial and one cremation. All interments of multiple bodies/cremains shall be located and made by the Superintendent. No double depth standard interments will be made.
- 4) All cremation burials must be authorized by the Superintendent if being performed by family members. Otherwise our grave digger must be contacted and present for the burial of cremains.
- 5) As soon as flowers, wreathes, emblems, etc., used at funerals, become unsightly and faded, they will be removed and no responsibility for their protection or maintenance is assumed.
- 6) Interments are to be handled only by funeral directors licensed by the State of Maine.

VII. STONES & MONUMENTS

- 1) All gravesites shall be marked with a permanent grave marker in the ground.
- 2) The Town of Chelsea shall not be responsible for the cost of erecting any gravestones that have been damaged through criminal action, vandalism or the weather conditions; excepting and reserving those lots under currently accepted perpetual care trust funds, or those mandated by the State of Maine in any ancient cemetery including Veteran's stones. See **appendix B** for list of perpetual care trust funds.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

VIII. RULES & REGULATIONS

- 1] On and after the effective date of this ordinance no lot or grave site shall be partially or fully enclosed by a fence, rail, hedge, trees, or shrubs.
- 2] Grave decorations are not permitted which obstruct general maintenance procedures. This includes, but is not limited to: toys, metal designs, ornaments, chairs, settees, glass vases, crushed stones, and/or similar articles. If so placed the Town reserves the right to remove the same without notice.
- 3] The Superintendent shall have the right to remove all floral designs, receptacles, flowers, weeds, trees, shrubs, plants, herbage of any kind from the cemetery when in the opinion of the Superintendent they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained in the cemetery.
- 4] Firearms will not be allowed in the cemeteries except for military funerals and at official celebrations such as Memorial Day, Veterans Day, etc.
- 5] Off road dirt-bikes, snowmobiles and all-terrain vehicles are prohibited within the cemeteries. Pets must be on a leash at all times.
- 6] The picking of any flowers (either wild or cultivated) or injury to any shrub, tree or plant or the marring of any monument, stone or structure in any Chelsea cemetery is forbidden.
- 7] Artificial floral arrangements are allowed only until they become unsightly and then may be removed at the discretion of the Cemetery Trustees.
- 8] Cemetery grounds are sacredly devoted to the internment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.
- 9] There shall be no trespassing in any public or private cemeteries under the supervision of the Town of Chelsea between ½ hour after sunset and ½ before sunrise.
- 10] If any person shall willfully injure any fence, ornamental tree, walk, grave, monument or tombstone, they shall be subject to criminal prosecution under state law and shall also be required to pay for any damage done.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

IX. PENALTIES

Any person who violates any provision of Section VIII of this ordinance shall be punished by a fine of not less than \$50.00 and not more than \$500.00, plus reasonable attorney fees and costs, recoverable in a civil action in Maine District Court. The Town of Chelsea or any appropriate officer may institute proceedings to enjoin such violations. Any fines collected shall inure to the Town of Chelsea. The Town Council may authorize the expenditure of such fines for the repair of damages done in the cemeteries but in no case may such fines be used for routine repair and maintenance. Any monies received from such fines which are not expended during any fiscal year shall be carried over to subsequent fiscal years in a special fund.

X. SEVERABILITY

If any portion of this ordinance is held to be unconstitutional, or invalid, this will not affect the remaining provisions of the ordinance.

XI. REPEAL OF CONFLICTING ORDINANCE

The ordinance entitled "Town of Chelsea Cemetery Maintenance Ordinance", adopted by the Chelsea Town Meeting on June 17, 2004 and "Appendices A, B and C", as amended, which were adopted in accordance with the terms of that Ordinance, are hereby repealed.

ORDINANCE HISTORY

ADOPTED:

AMENDED:

AMENDED:

AMENDED: 06/17/04

AMENDED:06/11/15

***NOTE:** Any requests for exception to this ordinance will be considered on an individual bases by majority vote of the Cemetery Committee and Board of Selectmen.

Effective Date:

The effective date of this ordinance shall be when voted and passed by the majority of voters at a Town Meeting of the Town of Chelsea and filed with the Town Clerk of the Town of Chelsea.

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

APPENDIX A

❖ The following are the current names and locations of cemeteries in the Town of Chelsea. There are six (6) privately owned cemeteries in the Town of Chelsea.

Allen Cemetery Registry of Deeds	Rt. 17 (Eastern Ave) Dated September 13, 1916	Map 16	T, A, V
Alexander Cemetery	Rt. 9, River Road	Map 4	P, A
Ashman Cemetery	Rt. 9, River Road	Map 4	P, A, V
Chase family Burying Ground	Intervale Road	Map 4	Lost
Chelsea Heights Cemetery Registry of Deeds	Rt. 9 (River Rd) Dated April 29, 1844	Map 14	T, A, V
Davenport Cemetery Registry of Deeds	Dr. Mann Road Dated April 10, 1882	Map 14	T, I, SO, V
Douglas Cemetery Registry of Deeds	Windsor Road Dated Oct. 4, 1973 (family)	Map 6	P, A, V
Douglas Cemetery Extension Registry of deeds	Windsor Rd. Book 1681 page 37 Year 1973	Map 6	T, A
Goodwin Cemetery Registry of Deeds	Route 9, River Rd Dated September 5, 1815	Map 4	T, I, SO, V
Hayes-Hall Cemetery Registry of Deeds	Windsor Road Dated January 18, 1904 (family)	Map 7	P, A

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

Hussey Cemetery	Intervale Road	Map 4	Lost
Littlefield Cemetery	Ferry Road	Map 14	I, SO, V
Morrill Cemetery Registry of Deeds Dated	Rt. 226 (Togus Rd) December 27, 1849	Map 2	T, A, V
Riverside Registry of Deeds Dated	Rt. 226 (Togus Road) November 19, 1852	Map 15	T, A, V
Searls Mills Cemetery Registry of Deeds	Windsor Road Dated April 1, 1914 to Association	Map 3 & Map 6	P, A
Trask Cemetery	Hallowell Road	Map 5	P, I

NOTE: All map references are those as shown on the Town of Chelsea Property Maps as prepared by Aerial Survey and Photo, Inc. April 1, 2012.

CODE: In an attempt to distinguish the many categories of our cemeteries, this code has been devised and applied:

A	Active
T	Town owned
P	Privately owned
I	Inactive
V	Veteran
SO	State ordered maintenance

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

APPENDIX B

TRUST FUNDS HELD BY THE TOWN OF CHELSEA

The following **trust** funds previously held in trust for **perpetual care** may be included in the Town of Chelsea's Cemetery General Trust Fund account for investment and bookkeeping purposes only. An accounting of these funds will be listed in the annual report for the Town of Chelsea. The INTEREST from these accounts may be used, as designated at the time of the trust agreement, to provide perpetual care for these designated lots according to name and location.

- | | |
|--|--|
| <p>a. Date: 12-26-33 Book 2, Article 10
Name: George Woodbury
Cemetery: Riverside Cemetery
Principal amount: \$100.00</p> <p>b. Date: 09-07-50
Name: William Robbins
Cemetery: Chelsea Heights
Principal amount: \$100.00</p> <p>c. Date: 05-07-55
Name: Dewey Seguin
Cemetery: Chelsea Heights-trust
Principal amount: \$100.00</p> <p>d. Date: 05-10-60 Book 5, Article 9
Name: Thomas & William Winter
Cemetery: Chelsea Heights
Principal amount: \$250.00</p> | <p>e. Date: 05-10-60 Book 5, Article 9
Name: Kirkwood - Dondero
Cemetery: Chelsea Heights
Principal Amount: \$200.00</p> <p>f. Date: 03-11-63 Book 5, Art.10
Name: HS Patterson
Cemetery: Morrill Cemetery
Principal Amount: \$500.00</p> <p>g. Date: 03-29-69 Book 7, Article 25
Name: Harry Morrill
Cemetery: Morrill Cemetery
Principal Amount: \$100.00</p> <p>h. Date: 03-09-1925 Book 2, Art. 17
Name: Frances Gardner
Cemetery: Riverside Cemetery
Principal Amount: \$200.00</p> <p>i. Date: 11-21-91
Name: Carson lot
Cemetery: Chelsea Heights
Principal Amount: \$500.00</p> |
|--|--|

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

APPENDIX C
CEMETERY TRUST FUNDS

❖ Cemetery Association Trust Funds are funds turned over to the Town of Chelsea by the Cemetery Association. These funds shall be held in trust by the Town of Chelsea according to Maine Revised Statute 1223 and the annual income (interest) only shall be expended in performance of the requirements of the trust. Interest may be spent on each cemetery as listed:

- a. Date: 03-13-1882 Book 1 Article 11
 Name: Davenport Burying Ground Trust Fund
 Cemetery: Davenport Cemetery
 Principal Amount: \$50.00

- b. Date: 03-15-73 Book 7, Article 23
 Name: Chelsea Heights Cemetery Association Trust
 Cemetery: Chelsea Heights
 Principal Amount: \$2,855.37

- c. Date: 05-22-78 Book 7, Article 12
 Name: Hayes-Hall Cemetery Trust Fund
 Cemetery: Hayes-Hall Cemetery (privately owned)
 Principal Amount: \$500.00

- d. Date: March 2000 Town records 2000-2001, Article 9
 Name: Searls Mills Cemetery Trust Fund
 Cemetery: Searles-Mills Cemetery
 Principal Amount: \$9,995.00

- e. Date: 2007
 Name: Virginia Katon bequest
 Cemetery: Searls-Mills
 Principal Amount: \$10,000.00

ORDINANCE

CHELSEA CERTIFICATE OF OCCUPANCY

PART 1. TITLE:

This ordinance shall be known and cited as the "Chelsea Certificate of Occupancy."

PART 2. PURPOSE:

The purpose of this ordinance is to promote the general welfare and safety of the citizens of the Town of Chelsea.

PART 3. DEFINITIONS:

Section A. Certificate of Occupancy: a document issued by the Code Enforcement Officer issued upon completion of a new structure as defined by the Building Permit Ordinance. Said document must certify that the structure complies with the State Plumbing Code and other Federal and Local Codes.

Building Permit: a document obtained to construct a new building or to alter an existing building.

Code Enforcement Officer: person employed by the municipality responsible that the codes are not violated and that the proper permits are obtained.

PART 4. STATUTORY AUTHORITY:

This ordinance is adopted pursuant to the "home rule authority" provision of Title 30-A Section 2001.

PART 5. APPLICABILITY/SCOPE:

Hereafter, it shall be unlawful to use, occupy, or permit the use of occupancy of any new, altered, or relocation of any building or premise and shall include the placement of mobile homes and or modular residence or commercial unit until a Certificate of Occupancy has been issued.

The Building Permit Application shall be considered an application for a Certificate of Occupancy. The Certificate of Occupancy shall be issued in conformity

with the scope of this ordinance upon completion of the work. It shall be the responsibility of the owner of the building and or property to notify the Code Enforcement Officer of completion.

The Code Enforcement Officer upon inspection shall issue a Certificate of Occupancy stating that said building or unit of said building or unit is in compliance to the State Plumbing, Building, Electric Codes and to the terms and conditions of the Building Permit issued.

The Code Enforcement Officer may issue a temporary Certificate of Occupancy for a period of six months for the completion of said building provided that reasonable safeguard protects the Health, Welfare, and Safety of the occupant and the public has been done and met that which is determined by the Code Enforcement Officer.

PART 7: ADMINISTRATION/ENFORCEMENT:

This ordinance shall be administered by the Chelsea Board of Selectman and or the Chelsea Planning Board and there officers. The Code Enforcement Officer shall maintain a public record of all Certificate of Occupancy's issued.

The Code Enforcement Officer shall have full and free access to inspect the work at all times.

If the structure does not meet all of the requirements of the various Local and State Codes, the Code Enforcement can not issue the Certificate of Occupancy. A notice shall be sent to the owner giving him/her a period of time as determined by the Code Enforcement Officer to have the building in compliance and ready for reinspection.

PART 8: PENALTIES:

Failure to obtain a Certificate of Occupancy shall be a violation of this ordinance. A fine of not less than \$50.00 and not more than \$200.00 will be assessed. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall insure to the Town of Chelsea.

CHELSEA SUBDIVISION ORDINANCE

I. Purpose and Authority

- A. This ordinance will pertain to all land within the boundaries of the Town of Chelsea. The purpose of this ordinance is to protect and preserve the public's health, safety and general welfare of the Town of Chelsea, and to assist the Planning Board in equitable implementation of these provisions. This ordinance is adopted by authority granted in 30-A M.R.S.A
- B. This ordinance shall be known and cited as the Chelsea Subdivision Ordinance.
- C. The Planning Board of the Town of Chelsea shall administer this ordinance.
- D. The Code Enforcement Officer (CEO) shall be responsible for enforcing this ordinance.

The CEO is empowered and duly authorized to enter into administrative consent agreements for the purpose of resolving violations of this ordinance and recovering fines without initiating court action.

- E. This ordinance shall be in effect from the time of its adoption by vote of a majority of the members present at Town Meeting.

II. Applicability

- A. Subdivision: the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, and 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.
 - 1. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd 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 that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
 - b. The division of the tract or parcel is otherwise exempt.
- 2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this ordinance, do not become subject to this ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
- 3. The following divisions do not create a lot or lots for purposes of these regulations, unless the intent of the transferor in any is to avoid the objectives of these regulations:
 - a. A division accomplished by devise does not create a lot or lots for the purposes of this definition.
 - b. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition.
 - c. A division accomplished by order of court does not create a lot or lots for the purposes of this definition.
 - d. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this section. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than 1/2 the assessed value of the real estate.
 - e. A division accomplished by a gift to the town if the town accepts the gift does not create a lot or lots for the purposes of this definition.
 - f. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this definition.
 - g. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

4. In determining the number of dwelling units in a structure, the provisions of this section regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
5. Parcels of land of more 40 acres or more shall not be counted as lots except where the lot or parcel from which it was divided is located entirely or partially within any shore land area as defined in MRSA Title 38, section 435 or within the town's Shore Land Zoning ordinance.

- B. Change to Subdivision: Any change of a recorded Subdivision plot or plan if such a change affects any street layout shown on the plot or plan, or area reserved for public use or any lot line, or any change if it affects any map, plot or plan legally recorded.

III. Conflict and Severability

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this ordinance or any other ordinance, regulation or statute, the more restrictive shall apply.

IV. Administrative Regulations

- A. Whenever any subdivision is proposed and before any contract for sale, or negotiation for sale, or permit can be granted, the subdividing owner or his agent must apply in writing to the Planning Board for its approval before any actions are taken.
- B. No transfer or ownership shall be made of any land in a proposed subdivision until a final plan of the subdivision has been approved by the Planning Board, nor until a duly approved copy of the final plan has been filed with the Town Clerk.
- C. Where strict conformity to the Subdivision Regulations would cause undue hardship or injustice to the owner of land, and a subdivision plan is substantially in conformity with the requirements of the Ordinance provided that the spirit of this Ordinance and the public health and welfare will not be adversely affected, the subdivider may seek a variance from the Board of Appeals.
- D. The Register of Deeds shall not record any plot of proposed Subdivision until it has been approved by the Planning Board and approval is attested by the signatures of a majority of the members of the Planning Board on the original tracing of the final plan of the Subdivision.
- E. The minimum lot size of any lot in a subdivision (per Chelsea Minimum Lot Size Ordinance-6/28/94) shall be not less than 87,120 sq feet (two acres) and also have at least 200 feet frontage on the street.
- F. Within the boundaries of the plan, each lot that is to be offered for sale or sold, must have had a soil sample taken and proof must be provided that the soil is

suitable for some method of waste disposal allowed under the State Building Code.

- G. Whenever a Subdivision creates a private road, a Road Association will be required prior to final approval.

V. Subdivision Application Process

A. Application Process

1. A request for approval of a Subdivision shall be made to the Planning Board in writing and shall be ~~accomplished~~ accompanied by three (3) copies of a preliminary plan.
2. The application for approval of a preliminary plan shall be submitted seven (7) days before a Planning Board meeting and will be considered at a regular meeting of the Planning Board within thirty (30) days of the application.
3. The Planning Board shall after such consideration and within thirty (30) days of receipt of an application and preliminary plan, issue a written statement informing the subdivider of approval, disapproval, or conditional approval and of any changes required prior to the submission of the final plan.
4. The written statement shall be accompanied by one (1) copy of each revised drawing or data sheet with the Planning Board approval or conditions, if any, endorsed on each.
5. The failure of the Planning Board to issue a written notice of its decision, directed to the applicant within thirty (30) days after a proposed Subdivision has been submitted constitutes its disapproval.
6. Within not more than twelve (12) months after issuance of a preliminary approval, the subdivider shall submit a final plan or the preliminary plan shall be considered void.
7. The Planning Board may, before final approval or disapproval of a final plan, hold a public hearing on such plan.
8. The Planning Board shall consider a final plan at a regular meeting with thirty (30) days of submission of such plan.
9. The approval of a final plan by the Planning Board shall be attested on the tracing cloth or Mylar and three (3) copies by signature of a legal majority of members of the Planning Board.

B. Preliminary Plan Requirements

Listed below are the required plan submittals for Planning Board Preliminary Plan Review. The following is required to be submitted at least seven days prior to the date of the review hearing.

1. Submit three (3) blue line copies of each plan sheet at a scale of not more than 1'=50 ft and 9 copies at a reduced scale on 8 1/2" x " paper. Scale for remaining property shall be no smaller than 1 inch=500 feet.
2. On the plan show the following: Date, north point, and graphic scale.
3. Existing nearby subdivisions.
4. Outline of proposed Subdivision with any remaining portion of the property, if any exists.
5. Name of Subdivision and address of Subdivision.
6. Assessor's map and lot(s) of the Subdivision.
7. Lot numbers. The plan shall show lot numbers and indicate the type of permanent marker to be set or found at each corner of the tract also include all center line information on road plans.
8. Perimeter survey showing bearing's distances, monumentation, contour intervals, and elevations above sea level.
9. Number of acres in Subdivision, lot lines and sizes in compliance with the Minimum Lot Size Ordinance. Also show the acreage of any land not included in the Subdivision to be retained by the owner.
10. Building setbacks or envelopes, if required.
11. Limits or existing vegetation and type.
12. Physical features of special interest. Show contours at 5 foot intervals and all slopes in excess of 20 percent.
13. Existing water bodies, watercourses and wetlands or significant sand and gravel aquifers.
14. Boundaries and designations of all shore land zoning and other land use districts and boundaries of any flood hazard areas including the 100-year flood evaluation as depicted on the town's most recent flood plain "firm map panel".
15. Public and private right of way easements, existing and proposed.
16. Scale of plan in written and graphic data, and north point orientation.
17. Owner and applicant's name and addresses.
18. Name and address of individual who prepared the plan.
19. Abutters names and locations including any directly across an existing or proposed street or streets. Also show all parcels of land to be owned in common by the Subdivision lot owners or offered to the town.
20. Zoning boundaries and location of proposed sewer and water lines, if applicable—or septic system test pits for septic system suitability. Also show all temporary and permanent control features proposed for the site.
21. Location of any proposed open space areas, conservation or recreation areas.

22. Location of any essential or significant wild life habitat and endangered plants.
23. Location of any areas of scenic or natural beauty or historic sites of the Subdivision.
24. Identification of soil types from county soils maps.
25. Show locations and names of existing and proposed roads.

VI. Final Approval and Filing

- A. All information required for preliminary plan
- B. Existing and final proposed lines of streets, ways, lots, easements for utilities or drainage and public area with the Subdivision.
- C. Sufficient data to determine the exact location, direction and length of every street line easement, lot line and boundary line and to reproduce these lines upon the ground.
- D. Location of all permanent monuments wherever, in the opinion of the Planning Board, they are necessary to determine locations on the ground.
- E. Lot numbers and letters in accordance with the prevailing policy on existing tax maps.
- F. Designation of location, size, planting and landscaping of such parks, esplanades or other open spaces as may be proposed or prescribed.
- G. A phosphorus control plan with illustration on final plan demarking the areas affected to prevent unreasonable levels of phosphorus migration into the water body (if applicable).
- H. The embossed seal of a licensed engineer and certification by a certified land surveyor as well as any other licensed professional who prepared part of the plan attesting that the plan is correct (water, sewerage, drainage, must be designated by a licensed engineer).
- I. Map scale 1 inch: to 50 feet. Drawn on linen or mylar with three (3) dark line copier. Plan may be on one or more sheets numbered as an example 1 of 3.2 of 3.3 of 3.
- J. The final plan shall be accompanied by certification from authorized local public officials or agencies that the design of ~~or~~ sewer and drainage facilities, streets, and utilities in the proposed Subdivision conform to the requirements of all pertinent local codes and ordinances.
- K. A letter from the Fire Chief indicating his/her review of the plan and approval of the development.
- L. A list of improvements and maintenance thereof, with both capital and annual operating estimates, which must be financed by the municipality or school district. The applicant shall provide an estimate of the net increase in the

assessed valuation at the completion of the construction of the subdivision. These lists shall include but not be limited to:

1. Schools, including busing
2. Street maintenance, snow removal and other public works
3. Police and fire protection
4. Solid waste disposal
5. Recreational facilities
6. Storm water drainage
7. Waste water treatment
8. Water supply
9. Utilities, including pole locations.
10. Postal Service

VII. Performance Standards

When adopting any Subdivision regulations and when reviewing any Subdivision for approval the Planning Board shall consider the following criteria and, before granting approval, must determine that:

- A. Pollution. The proposed Subdivision will not result in undue water or air pollution.
- B. Sufficient water. The proposed Subdivision has sufficient water available for the reasonably foreseeable needs of the Subdivision.
- C. Municipal water supply. The proposed Subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.
- D. Erosion. The proposed Subdivision will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- E. Traffic. The proposed Subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed Subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of transportation has provided documentation indicating that the driveways or entrances conform to Title 23 section 704 and any rules adopted under that section.
- F. Sewage disposal. The proposed Subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
- G. Municipal solid waste disposal. The proposed Subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.
- H. Aesthetic, cultural and natural values. The proposed Subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland

Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

- I. Conformity with local ordinances and plans. The proposed Subdivision conforms with a duly adopted Subdivision regulation or ordinance, comprehensive plan, development plan or land use plan.
- J. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section.
- K. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, Subchapter I, Article 2-B, the proposed Subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
- L. Ground water. The proposed Subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant the Subdivision is not in a flood-prone area.
- N. Freshwater wetlands. All freshwater wetlands within the proposed Subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.
- O. Farm Land. All farmland within the proposed Subdivision has been identified on maps submitted as part of the application.
- P. River, stream or brook. Any river, stream or brook within or abutting the proposed Subdivision has been identified on all plans submitted as part of the application.
- Q. Storm water. The proposed Subdivision will provide for adequate storm water management.
- R. Spaghetti-lots prohibited. If any lots in the proposed Subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38 Section 480-B, none of the lots created within the Subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
- S. Lake phosphorus concentration. The long-term cumulative effects of the proposed Subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed Subdivision.
- T. Impact on adjoining municipality. For any proposed Subdivision that crosses municipal boundaries, the proposed Subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the Subdivision is located.
- U. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12 Section 8869, Subsection 14.

- V. Postal Services: For any subdivision with six or more lots on a private road, the developer shall provide a pedestal cluster mailbox in a single structure on site in a convenient location so that it is accessible to all tenants or residents. Such mailbox system and location shall be approved by the local postmaster or representative of the postmaster.
- W. Fire Protection: To reduce the burden on Town services, a fire pond or cistern may be required at the discretion of the Fire Chief.

VIII. Performance Guarantees

- A. With the submission of the final plan, the subdivider shall submit either a certified check payable to the Town of Chelsea, or a faithful performance bond to the town of Chelsea issued by a surety company acceptable to the Town's Treasurer in an amount of money determined by the Planning Board. The check or bond will be equal to the total of all the costs of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage and utilities specified in the final plan, conditioned on the completion of all such grading, paving, storm drainage, water main, fire hydrant, sewer and street installations within (1) year from the date of the check or bond.
- B. Before releasing the check or bond, the municipal officers will determine to their satisfaction by a written certification signed by the Town Treasurer and the Planning Board Chair, that the subdivider has submitted to them, written statement signed by a Professional Engineer stating that streets and storm drainage have been constructed and completed in conformance with the final plan.

IX. Appeals

An appeal may be taken from the decision of the Planning Board to the ~~Appeals Board~~ Board of Appeals.

X. Fees

- A. The basic, non refundable fee for a Subdivision Application will be \$25.00 per residential lot of unit. This fee is due from the applicant at the time of submission.
- B. An additional fee, to be held in escrow paid by the applicant at the time of submission and drawn down by the Town when needed for expenses incurred in revision of the Subdivision.
 - 1. For minor Subdivisions of four lots of less, or Subdivisions requiring no roads, an escrow fee of \$25.00 per lot or unit.

2. For larger Subdivisions, over four lots or requiring construction of a road, an escrow fee of \$50.00 per lot or unit.
- C. The amounts in section B1 and B2 will be drawn down by the Town for all Town expenses incurred in application review. Whenever the escrow amounts are drawn down more than 75 percent, the applicant will pay the escrow amount per lot or unit again. When the project review is complete, any amount remaining will be return to the applicant.
- XI. Enforcement and Penalties
 - A. Any person or entity who owns controls or operates any building, property or facility that violates this ordinance shall be notified by the CEO, in writing, of such violation and provided sufficient time to correct said violation, as determined by the CEO. Any person or entity who continues to violate this ordinance after being properly notified shall be fined in accordance with Title 30-A M.R.S.A §4452. In addition, each day such violation(s) continues after proper notification shall constitute a separate offense.
- XII. Amendments
- XIII. Definitions
 - A. **Applicant:** The person applying for Subdivision approval under these regulations.
 - B. **Certified Soil Scientist:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.
 - C. **Driveway:** A vehicular access way serving a dwelling unit.
 - D. **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.
 - E. **Final Plan:** The final drawings on which the applicant's plan of Subdivision is presented to the Board for approval and which, if approved, must be recorded at the Registry of Deeds.
 - F. **100-Year Flood:** The highest level of flood that, on the average, has a one percent chance of occurring in any given year.
 - G. **Municipal Engineer:** Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.
 - H. **Net Residential Acreage:** The total acreage available for the Subdivision, as shown in the proposed Subdivision plan, minus the area for streets or access and the areas that are unsuitable for development.
 - I. **Person:** Includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
 - J. **Preliminary Plan:** The preliminary drawings indicating the proposed layout of the Subdivision to be submitted to the Planning Board for its consideration.
 - K. **Professional Engineer:** A professional engineer, registered in the State of Maine.

- L. **Certified Land Surveyor:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.
- M. **Street:** Public and private ways such as alleys, avenues, highways, roads, and other right-of way, as well as areas on Subdivision plans designated as rights-of-way for vehicular access other than driveways.
- N. **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 the land on both sides thereof.
- O. **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, river, stream, or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria. This is also meant to include forested wetlands.

Attest:

Dated:

Enacted: March 30, 1976

Amended: February 28, 1989

Amended: Chelsea Minimum Lot Size Ordinance 6/28/94

Amended Subdivision Ordinance June 21, 2001

Amended: June 11, 2015

TOWN OF CHELSEA

Culvert Ordinance:

Section 1.

Purpose - The purpose of this ordinance is to promote the general welfare and safety of the citizens of the Town of Chelsea by regulating the installation of culverts on town, rights-of-way and town maintained rights-of-way belonging to the State of Maine; so that a public hazard, or nuisance shall not be created by blocking, impeding, or diverting surface water onto town maintained roadways or the surface water removal therefrom.

Section 2.

Scope - Hereafter, any person or business, within the Town of Chelsea, constructing or connecting any means of access to or from private or public property to an existing town right-of-way, town easement or town maintained State right-of- way will comply with this ordinance.

Section 3.

Width - No connection to and existing public right-of-way maintained by the town shall exceed forty feet in width, measured along the centerline of the town maintained road within the access to the town maintained right-of-way. This requirement shall be inapplicable to town or state roads that are at present, or are required by law to be of larger dimension.

Section 4.

Use of Culverts - It shall be unlawful for any person or business to construct a means of access to any public right of way in the Town of Chelsea from abutting private, or public property by the construction of a street, road, lane, driveway, parking lot walkway or other substantial form of entrance without providing adequate ditches or drainage structures. These ditches or structures, shall be so located and constructed as not to cause the blockage, impediment, or substantial diversion of established drainage patterns along the side of the existing town roads, or to prohibit or impede, the flowage of surface water off of the existing road surfaces.

Section 5.

1. **Permit Required:** a permit from the Town Manager or Road Commissioner shall be required before any culverts, drains, or structures are installed. The permit shall specify the size, material of construction, location, length, and form of drainage treatment required.

CULVERTS:

- A. Length** - culverts shall not exceed seventy feet in length.
- B. Materials** - Culverts shall be made of galvanized corrugated steel , plastic ABS or other M.D.O.T. approved construction for highways and driveways. Culverts shall be designed for the loading imposed upon them.
- C. Coupling Bands** - Coupling bands shall be constructed per manufacturers specifications with full circular corrugations. The ends of all culverts shall be fabricated with full circle corrugations, not spiral, to be compatible with the coupling bands.
- D. Beds** - culverts shall be laid in a bed at least one foot deep of rough granular material containing no stones larger than three inches in any dimension. This material shall provide a distance of one foot each side of the pipe and brought up to the spring line of the pipe. This bedding material shall be thoroughly tamped the entire length of the pipe.
- E. Buried** - culverts shall be buried with at least one and one half feet of granular material over the crown of the pipe. This material shall contain no stones larger than six inches in any dimension.
- F. Size** - The size of the culvert shall be determined by the Road Commissioner based on the drainage characteristics of the area to be serviced by the proposed culvert. In no cases shall the culvert pipe be less than the nominal fifteen-inch size and 24 feet length for galvanized pipe or twelve inches in diameter and 20 feet in length if constructed of PVC or similar synthetic pipe.
- G. Slope** - minimum slope of culverts shall be no less than 0.1ft/20ft length of pipe sloped in the direction of the existing drainage.
- H. Erosion Prevention** - all culverts shall have the following to prevent erosion; **(1).** - stone rip rap one foot thick or, **(2).** 4" reinforced concrete slab sections with weep holes and 6" granular free draining base.

Section 6.

Supervision

- A. Work done without permission** - The Road Commissioner shall be informed at least forty eight hours or two working days in advance the proposed installation of any culverts so that an inspector from the Town may be present during the work. Work performed without the Road Commissioner being notified may, at the Road Commissioner discretion be required to be uncovered, at the installers expense, for inspection or comply with whatever test the Road Commissioner may prescribe to determine the suitability of the completed work.
- B. Access to Work** - the Road Commissioner or his designated representative shall have full and free access to the work at all times.
- C. Barricades** - any holes or trenches left open overnight shall be barricaded and lighted with suitable warning devices.

Section 7.

Charge or Fees

- A. Applicant bears total cost** - the person or business requesting access to the public ways as described in this ordinance shall bear the entire cost of furnishing and installing, including any cost for design and plans, the culverts deemed necessary.
- B. Person responsible for compliance** – those persons installing the culvert shall be wholly responsible for the operation and maintenance of the work until accepted as completed according to specifications of the Road Commissioner.
- C. Ownership** - Once acceptance of the work by the Road Commissioner all ownership and maintenance of the structures shall be assumed by the Town.
- D. Assessment** – all expenses incurred by the Town of Chelsea under enforcement below shall be assessed against the owner of record of the property abutting the public right-of-way where the means of access connects.

Section 8.

Enforcement

A. Notice – person or businesses, found not complying with this ordinance by the Road Commissioner or the Town Manager will be given written notice that they shall have 30 days to comply with the ordinance. This notice shall be sent through regular mail or delivered by hand by the Road Commissioner or the Town Manager.

B. Failure to Comply - failure to comply after the 30 days notice has expired shall constitute grounds for the town or its delegated representatives to install the necessary drainage structures. The expense thus incurred by the town, plus all legal fees caused or made necessary by this action, will be assessed against the property owner of record as described in Section 7. If the costs billed the property owner are not paid within one year a lien shall be applied against the property in the same manner as a property tax lien.

State Law Reference - 30 MRSA S-237

23

3251-3255

Approved February 28, 1989

Amended September 8, 1998

Amended June 27, 2012

Attest: A True Copy:

Lisa Gilliam, Town Clerk

Office of:
Selectmen
Town Manager
Enforcement Officer

Telephone (207)-582-4802

Office of:
Tax Collector
Town Treasurer
Assessor

Town of Chelsea

560 Togus Road

Chelsea, ME 04330

CULVERT PERMIT

DATE: _____

APPLICANT: _____

LOCATION: _____

CULVERT LENGTH: _____

CONSTRUCTION MATERIAL: _____

DRAINAGE TREATMENT REQUIRED: _____

APPROVED/DISAPPROVED:

DATE: _____

Road Commissioner /Town Manager

Chelsea Disbursement Warrant Ordinance

Section 1. Purpose.

The purpose of this ordinance is to provide an alternative to the statutory procedure of approval of warrants authorizing the treasurer to disburse money.

Section 2. Authority.

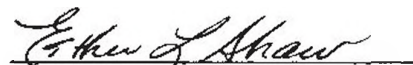
This ordinance is enacted pursuant to 30-A M.R.S.A. Section 3001 (municipal home rule) and Section 5603 (2)(A).

Section 3. Procedure for Approval.

The treasurer may disburse money only on the authority of a warrant drawn for the purpose, either (a) affirmatively voted and signed by a majority of the municipal officers at a duly called public meeting, (b) seen and signed by a majority of them acting individually and separately, or (c) signed as otherwise provided by law for the disbursement of employees' wages and benefits and payment of municipal education costs.

Effective: August 6, 1996.

Attest:


Town Clerk

Chelsea Emergency Management Ordinance

1. Title and Authority

This Ordinance shall be known and may be cited and referred to as the “Chelsea Emergency Management Ordinance”

The Ordinance shall be adopted consistent with the provisions of 37-B MRSA 781 et seq. and pursuant to the home rule authority of the Town.

2. Establishment of the Chelsea Emergency Management Agency

There is hereby established within the Office of the Selectmen an Agency that shall be responsible for emergency management and preparedness within and for the Town of Chelsea. It shall be known as the “Chelsea Emergency Management Agency” (CEMA).

3. Purpose

The purpose of this Ordinance is to provide for the efficient organization and operation of all aspects of the emergency management and preparedness for the Town of Chelsea.

This Ordinance is not intended to relieve any other Town department or office from the responsibilities or authority given to it, nor is it intended to conflict with the work of any volunteer Agency to provide support in any emergency event.

4. Definitions

The following definitions shall apply in the interpretation of this Ordinance:

Agency- means the Chelsea Emergency Management Agency and its resources, including employees, volunteers, committees, and its facilities and equipment.

Chairperson or alternate of the Board of Selectmen- means the Chairperson of the Board, or, if absent or unable to act, the remaining majority of the Board of Selectperson who are present and able to act.

Director- means the Director of the Emergency Management Agency of the Town of Chelsea.

Disaster or Emergency- means an occurrence or event so designed by the Chairperson of the Board of Selectmen or his alternate and it includes the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man made cause including, but not limited to, fire, flood, earthquake, wind storm, wave action, oil spill or other contaminates requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

Emergency Management-means those activities which are necessary to ensure that during a disaster or emergency, the Town can, to the extent possible, carry out basic governmental functions of maintaining the public peace, health, safety and welfare. This shall include plans and preparations for protection from, and for relief, recovery and rehabilitation from, the effects of any disaster or emergency.

Emergency Management Appointee or Volunteer- means any person duly registered with the Agency or volunteering and assigned to participate in CEMA activities.

5. Organization and Responsibilities

Selectmen

The Board of Selectmen of the Town of Chelsea shall be generally responsible for appointing a Director of Chelsea's Emergency Management Agency. The Selectmen will oversee and help the Director with organization, administration, and operation. The Director and or the Board of Selectmen shall declare the onset and termination of any disaster or emergency.

The Director or the Board of Selectmen shall confer with each other and share when an emergency or disaster has been declared.

The Agency will be responsible for coordinating all Town activity in connection with emergency management and preparedness.

The Agency may utilize such permanent and temporary appointees and volunteers as deemed necessary and may prescribe their duties and responsibilities.

Director

The Agency shall have a Director who shall coordinate activities of the Agency and all other Town departments, offices, organizations and persons within the Town having involvement in the emergency management and preparedness.

The Director shall be appointed by the Board of Selectmen and can be removed by the Board for having just cause.

Duties

1. Prepare and maintain a current disaster emergency plan for the Town.
2. Confer with county, state and federal agencies to ensure continuity and coordination in the plans for responding to a disaster or emergency.
3. Develop, or cause to be developed, mutual aid agreements in case disasters or emergencies are too great to be dealt with un-assisted.
4. Direct the development and implementation of public information programs to keep residents informed regarding possible local disasters or emergencies, and regarding the role every resident should play in the response to such events.

5. Direct the development and implementation of training programs to prepare CEMA appointees, volunteers and other Town Officials and agencies for various emergency management operations.
6. Obtain and maintain information regarding facilities, equipment and resources within the Town, which could be used in a disaster or emergency.
7. Ensure the establishment, maintenance and testing of the public alerting system.
8. Identify residents having special needs and what care or management they may need in a disaster or emergency.
9. Establish and help manage an Emergency Operation Center.
10. Account to the Board of Selectmen regarding the use of funds provided to the Agency.
11. Keep the Town Manager and the Board of Selectmen informed of all CEMA matters.

6. National Incident Management System (NIMS)

Chelsea hereby establishes the National Incident Management System (NIMS) as municipal standard for incident management. This system provides a consistent approach for federal, state and municipal government to work together. All Chelsea emergency and disaster responders for incident management will utilize the NIMS system.

7. Authority Under Emergency Conditions

During any period of impending or actual disaster or emergency, as declared by the Board of Selectmen or if unable to act or absent by the Director of CEMA the following provisions shall apply:

A. Orders, rules and regulations.

The Board of Selectmen, or if absent or unable to act, the Director may promulgate such orders, rules and regulations as they deem necessary to protect the health, safety, welfare and property of the Townspeople. Such order, rules and regulations may include but are not limited to the following:

1. Prohibit or restrict the movement of vehicles in order to facilitate CEMA work or to facilitate the movement of persons within the Town.
2. Govern the movement of persons from areas deemed hazardous or vulnerable to the disaster.
3. Other orders, rules and regulations necessary to preserve or promote the health, safety and welfare of the public during an impending disaster or emergency.

B. Obtain Supplies; Payments

The Director or Selectmen may obtain vital supplies, equipment and other property which is or may be lacking and which is needed for the protection of health, safety, welfare and protection of property and people. Payments shall be tracked and the Board of Selectmen may obligate the Town to pay fair value thereof if all existing funds for this purpose have been spent.

C. Request for Additional Aid

The Board of Selectmen and or the Director are directly and separately authorized to request aid and or assistance from County, State and any political subdivision of the State or any other source.

D. Town Assistance; volunteers; payment and coverage

The Board of Selectmen and or the Director may require assistance of any Town Official or employee in the emergency management effort, and if the response is determined to be inadequate the CEMA may require the services of such other personnel as they can obtain, including citizen volunteers.

All duly authorized and registered persons rendering emergency services shall be entitled to the privileges and immunities provided by State and local law for regular Town employees and other registered and identified civil defense and disaster workers, and such persons may, upon demand, receive reimbursement for appropriate "out of pocket" expenses for their emergency employment. All such persons shall be deemed to be employees of the Town when engaged in training or when on duty with the Agency, and they shall have all the rights of employees under the Workman's Compensation Act as specified in Title 37-B M.R.S.A. Section 828, as amended.

E. Right of Way.

Personnel and equipment required to respond to a disaster and emergency shall obey all traffic laws and shall have the right-of-way over all public ways and roads, and for anyone failing to grant said right-of-way shall suffer penalties as specified under Title 37-B M.R.S.A. Section 828.

Nothing in this section shall be constructed to limit the authority or responsibility of any department to proceed under the powers and authority granted to it by Town Ordinance or other laws.

The provisions in this section shall terminate when the disaster or emergency situation is declared to have ended.

Town of Chelsea, Maine

**FIRE DEPARTMENT SERVICE BILLING
ORDINANCE**

June 11, 2015

Town of Chelsea, Maine

FIRE DEPARTMENT SERVICE BILLING ORDINANCE

Section 1: Statement of Purpose:

The Town of Chelsea is engaged in providing fire suppression, fire rescue and fire safety services and is organized as a municipality under the laws of the State of Maine; and in consideration of services rendered hereby desires to set the following billing policy for Fire Department Services. This ordinance is adopted pursuant to municipal home rule ordinance authority and Title 30-A MRSA § 3001.

Section 2: Definition of Services:

The Town of Chelsea may seek payment for the cost of services provided by the Town of Chelsea Fire Department. Services the Town of Chelsea may seek payment for include, but are not limited to:

- A - Scene and safety control at traffic accidents;
- B –Disentanglement operations and assist rescue with Extrication from vehicles;
- C - Fluid mitigation at traffic accidents;
- D - Vehicle Fire;
- E - Hazard Mitigation Operations

Section 3: Fees for Services:

Upon adoption of this Ordinance, the Board of Selectmen in there expressed authority shall be authorized to review and set the fees as they deem in the best interest of the Town of Chelsea.

Section 4: Explanation of Charges:

A - Command & Control Scene Safety:

Positioning of fire apparatus and personnel so as to protect the scene from other traffic and deny entry into the scene of unauthorized personnel. Police can the move traffic around the area the fire department has deemed as the safe zone for the occupants of the vehicles and the rescuers on the scene. Safely staging other incoming agencies responding to this incident and may also include a pulled hose line for protection of people on scene from possible fires and fumes or residue from such things as gasoline and air bag propellants. The most important function is establishing incident command of the scene, which is the fire departments responsibility at emergency incidents of this nature, and to coordinate with other responding agencies for their needs at the scene. Patient care is the responsibility of Emergency Medical Service personnel but assistance may be requested by the EMS personnel.

B - Disentanglement / Extrication:

Anytime a person has to be lifted or taken out of an emergency situation or forcible entry is necessary to gain proper access to victims the fire department will assist ambulance or EMS (Emergency Medical Services) personnel in a coordinated effort on their own. This could include, but is not limited to: car accidents, industrial accidents, confined spaces, below grade rescues, or even high angle rescues to name just a few. Ropes, ladder devices, air monitoring equipment, self contained breathing apparatus, hydraulic equipment, shoring, saws, cribbing, air bags are just a few of the types of equipment used in extrication issues.

C - Fire Suppression:

Fire suppression at a traffic accident is any time fire department personnel have to contain or extinguish a fire. It can also be the laying of hose lines and positioning a hand line for the protection of individuals at the scene because of fire, smoke, or leaking fluids, such as gasoline.

D - Hazard Mitigation:

Any time fire department personnel have to deal with any hazardous substances via containment or absorption with pads for carbon-based substances like gas or oil, or removal via pads and sand or other means permitted by the DEP (Department of Environmental Protection). This could be a car accident, trucking accident or a fixed facility. The mitigation of all hazardous material and substances is done in conjunction with the DEP.

E - Billing Procedures:

1 - First billing on or about the 15th of each month for all reports submitted for billing in the prior 30-day period.

a) Terms 30 days; with same billing to all parties involved in the same accident;

2 - Second Notice, if invoice has not been settled in 60 days.

3 - 90 day notice sent by certified mail.

4 - Collection Agency to be contacted after 120 days.

F - Considerations for Write Off:

- 1 - When the claim was not paid with a valid reason (insured not at fault, not covered)
- 2 - Not covered and failed to pay after 60 day notice.
- 3 - If all attempts to contact insurance companies and /or individuals failed by any common method available listed above.

Section 5: Administration and Enforcement:

It will be the duty of the Town Clerk and the Town Manager, working with the Fire Chief, to effectively pursue the requirements of this Ordinance for payment of services rendered by the Fire Department as specifically outlined above.

Section 6: Effective Date:

This ordinance shall take effect upon adoption by the Town of Chelsea at its annual Town meeting of June 21, 2012 and upon such dates that it may be amended.

Section 7: Validity and Severability:

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

Section 8: Conflict with Other Ordinances:

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, by law, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of Fire Department Services, the provisions of this Ordinance shall control.

Amended: June 11, 2015

As of July ____ , 2015

FEES ESTABLISHED BY THE BOARD OF SELECTMEN

Per Section 3 of the Fire Department Service Billing Ordinance

Hourly rate for Engine Trucks:	\$150.00/hr
Hourly rate for Squad Truck:	\$150.00/hr

The minimum call out fee for rolling to a scene when toned out shall be \$300.00.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF CHELSEA, MAINE

ENACTED: July 21, 2011
Date

EFFECTIVE: July 21, 2011
Date

CERTIFIED BY: Scott M. Tilton
Signature

CERTIFIED BY: Scott M. Tilton
Print Name

Town Clerk
Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

CONTENTS

ARTICLE	PAGE
I. PURPOSE AND ESTABLISHMENT	2
II. PERMIT REQUIRED	2
III. APPLICATION FOR PERMIT	2
IV. APPLICATION FEE AND EXPERT'S FEE	4
V. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS.....	4
VI. DEVELOPMENT STANDARDS	6
VII. CERTIFICATE OF COMPLIANCE	10
VIII. REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS	11
IX. APPEALS AND VARIANCES	11
X. ENFORCEMENT AND PENALTIES	13
XI. VALIDITY AND SEVERABILITY	14
XII. CONFLICT WITH OTHER ORDINANCES	14
XIII. DEFINITIONS	14
XIV. ABROGATION	19

60.3 (d) Rev. 4/09
(prepared 1/05/2010 by SPO/slb)

ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Chelsea, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Chelsea, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Chelsea, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Chelsea has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Chelsea having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Chelsea, Maine.

The areas of special flood hazard, Zones A and AE for the Town of Chelsea, Kennebec County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Kennebec County" dated Dec 16, 2010 with accompanying "Flood Insurance Rate Map" dated Dec 16, 2010 with panels:

516, 517, 518, 519, 536, 537, 538, 539, 543, 544, 657, 676, 677, 681

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Kennebec County," are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Chelsea, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE, from data contained in the "Flood Insurance Study- Kennebec County," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
3. a certified statement that bridges will meet the standards of Article VI.M.;
4. a certified statement that containment walls will meet the standards of Article VI.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$10 shall be paid to the Town Treasurer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood and floodway data contained in the "Flood Insurance Study – Kennebec County, Maine," as described in Article I;
 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained

- pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On Site Waste Disposal Systems - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Residential - New construction or substantial improvement of any residential structure located within:

1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.

G. Non Residential - New construction or substantial improvement of any non-residential structure located within:

1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

- a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zones AE shall:
 - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and

- b. meet the anchoring requirements of Article VI.H.1.c.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

J. Accessory Structures - Accessory Structures, as defined in Article XIII, located within Zones AE and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zones AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map" unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIII;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. Bridges** - New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

2. a registered professional engineer shall certify that:

- a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
- b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones AE and A shall:

- a. have the containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant's written notification; and,
2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will 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 condition 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 any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Chelsea may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - 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; and,
 - 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.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, 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.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. 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 days from the date of any decision of the Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

Building - see Structure.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Development - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AE or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L..

Elevation Certificate - An official form (FEMA Form 81-31, 03/09, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Flood-prone Area - means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this ordinance.

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XIV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (d) Rev. 4/09
Prepared by SPO/slb
1/05/2010

GENERAL ASSISTANCE ORDINANCE



**Prepared by Maine Municipal Association
September 2013**

GENERAL ASSISTANCE ORDINANCE

The Municipality of _____ 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 _____ day of _____, _____, by the municipal officers:
(day) (month) (year)

_____ (Print Name)	_____ (Signature)
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_____ (Print Name)	_____ (Signature)
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_____ (Print Name)	_____ (Signature)
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_____ (Print Name)	_____ (Signature)
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_____ (Print Name)	_____ (Signature)
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_____ (Print Name)	_____ (Signature)
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TABLE OF CONTENTS

GENERAL ASSISTANCE ORDINANCE

Article I – Statement of Policy	1
Article II – Definitions.....	3
<u>Section 2.1</u> – Common Meaning of Words	3
<u>Section 2.2</u> – Special Definitions.....	3
Applicant.....	3
Application Form.....	3
Basic Necessities	3
Case Record.....	4
Categorical Assistance	4
Claimant	4
Deficit	4
Disabled Person	5
Dwelling Unit.....	5
Eligible Person.....	5
Emergency	5
General Assistance Program.....	5
General Assistance Administrator	5
Household	6
Income.....	6
Initial Applicants.....	8
Just Cause.....	8
Lump Sum Payment.....	8
Material Fact.....	8
Maximum Levels of Assistance	8
Misconduct	8
Municipality.....	9
Municipality of Responsibility.....	9
Need.....	9
Net General Assistance Costs.....	9
Period of Eligibility	9
Pooling of Income.....	9
Real Estate	9
Recipient	10
Repeat Applicants	10
Resident	10
Resources	10
30-Day Need	11
Unforeseen Repeat Applicants.....	11
Unmet Need	11
Work Requirements.....	11

Article III – Administrative Rules and Regulations.....	13
<u>Section 3.1 – Confidentiality of Information.....</u>	13
Release of Information	13
Information from Other Sources; Penalty	13
Misuse of Information	14
<u>Section 3.2 – Maintenance of Records</u>	14
Case Records.....	14
Retention of Records.....	15
Article IV – Application Procedure.....	16
<u>Section 4.1 – Right to Apply.....</u>	16
Who May Apply	16
Application Via Telephone.....	16
Written Application Upon Each Request.....	16
Applications Accepted; Posted Notice	17
<u>Section 4.2 – Application Interview</u>	17
<u>Section 4.3 – Contents of the Application</u>	17
<u>Section 4.4 – General Assistance Administrator’s Responsibilities at the Time</u> of the Application	18
Application Requirements.....	18
Eligibility Requirements	19
Applicant Rights.....	19
Reimbursement/Recovery	19
<u>Section 4.5 – Responsibilities of the Applicant at the Time of Application</u>	20
<u>Section 4.6 – Action on Applications.....</u>	21
Written Decision	21
Content.....	21
<u>Section 4.7 – Withdrawal of an Application.....</u>	22
<u>Section 4.8 – Temporary Refusal to Accept Application</u>	22
<u>Section 4.9 – Emergencies</u>	23
Disqualification	23
Assistance Prior to Verification.....	24
Telephone Applications.....	24
Limitation on Emergency Assistance	24
<u>Section 4.10 – Residence</u>	26
Moving/Relocating	26
Institutions	26
Temporary Housing	27
Disputes	27
Article V – Eligibility Factors	28
<u>Section 5.1 – Initial Application</u>	28
Initial Application	28
Subsequent Applicants.....	28
<u>Section 5.2 – Eligibility for Categorical Assistance</u>	29
<u>Section 5.3 – Personal Property</u>	29

a) Liquid Assets.....	29
b) Tangible Assets	30
c) Automobile Ownership	30
d) Insurance	31
e) Transfer of Property	31
<u>Section 5.4 – Ownership of Real Estate</u>	<u>31</u>
a) Principal Residence	31
b) Other Property	33
<u>Section 5.5 – Work Requirement</u>	<u>33</u>
Employment; Rehabilitation.....	33
Verification	34
Ineligibility.....	34
Ineligibility Due to Job Quit or Discharge for Misconduct	35
Just Cause	35
Applicant’s Burden of Establishing Just Cause	36
Eligibility Regained.....	36
Dependents.....	36
Exemptions	37
<u>Section 5.6 – Municipal Work Program</u>	<u>37</u>
Consent.....	38
Subtracting Value of Workfare Performed from Client’s GA Debt	38
Limitations	38
“Workfare First” Policy.....	40
Work-Related Expenses.....	42
Disqualification	42
Eligibility Regained.....	42
Reports.....	43

<u>Section 5.7 – Use of Resources</u>	44
Minors	44
Mental or Physical Disability.....	45
Written Notice; Disqualification.....	45
Forfeiture of Benefits	46
<u>Section 5.8 – Period of Ineligibility</u>	46
Work Requirement	46
Fraud.....	47
<u>Section 5.9 – Unemployment Fraud</u>	47
 Article VI – Determination of Eligibility	48
<u>Section 6.1 – Recognition of Dignity and Rights</u>	48
<u>Section 6.2 – Determination; Redetermination</u>	48
<u>Section 6.3 – Verification</u>	49
Eligibility of applicant; duration of eligibility.....	49
Applicant's responsibilities	49
Initial Applicants	49
Repeat Applicants	50
Unforeseen Repeat Applicants.....	50
Overseer's responsibilities	50
Redetermination of eligibility	51
Penalty for Refusing to Release Information	52
<u>Section 6.4 – Fraud</u>	52
Period of Ineligibility	52
Right to a Fair Hearing	53
Reimbursement.....	53
Dependents.....	53
<u>Section 6.5 – Period of Eligibility</u>	54
<u>Section 6.6 – Determination of Need</u>	54
Income for Basic Necessities	55
Use-of-Income Requirements	56
Calculation of Income and Expenses	57
Consolidation of Deficit.....	58
<u>Section 6.7 – Income</u>	58
Income Standards	58
Calculation of Income.....	59
Types of Income.....	59
a) Earned income.....	59
b) Income from Other Assistance or Social Services Programs	60
c) Court-Ordered Support Payments	61
d) Income from Other Sources.....	61
e) Earnings of a Son or Daughter	61
f) Income from Household Members.....	61
g) The Pooling or Non-Pooling of Income	62
h) Lump Sum Income.....	62
<u>Section 6.8 – Basic Necessities; Maximum Levels of Assistance</u>	64

Overall Maximum Levels of Assistance	64
Maximum Levels of Assistance for Specific Basic Necessities	64
A) Food	65
B) Housing	66
Rental Payments to Relatives	66
Rental Payments to Non-Relatives	67
Mortgage Payments	67
Liens	69
Property Taxes	70
Housing Maximums	71
C) Utilities	72
Electricity Maximums for Households Without Electric Hot Water	72
Electricity Maximums for Households that Use Electrically Heated Hot Water	73
Non-Electric Utilities	73
D) Fuel	73
E) Personal Care and Household Supplies	73
F) Other Basic Necessities	74
1) Clothing	74
2) Medical	74
3) Hospital Bills	75
4) Dental	76
5) Eye Care	76
6) Telephone Charge	77
7) Work-Related Expenses	77
8) Travel Expenses	77
9) Burials, Cremations	77
10) Capital Improvements	78
<u>Section 6.9 – Burials; Cremations</u>	78
Funeral Director Must Give Timely Notice	78
Application for Assistance Shall be Calculated on Behalf of the Deceased	79
The Financial Responsibility of Certain Family Members	79
Consideration of the Financial Responsibility of Family Members	80
Proration of Familial Responsibility	80
Eight Days to Determine Eligibility	81
The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute	81
Burial Expenses	81
Cremation Expenses	82
<u>Section 6.10 – Notice of Decision</u>	82
Written Decision	82
Contents	82
Disbursement of General Assistance	83

Article VII – The Fair Hearing	84
<u>Section 7.1</u> – Right to a Fair Hearing.....	84
<u>Section 7.2</u> – Method of Obtaining a Fair Hearing	84
Written Request.....	84
Scheduling the Fair Hearing	85
<u>Section 7.3</u> – The Fair Hearing Authority	85
<u>Section 7.4</u> – Fair Hearing Procedure.....	86
Claimant’s Failure to Appear	87
<u>Section 7.5</u> – The Fair Hearing Decision	88
 Article VIII – Recovery of Expenses	 90
Recipients	90
Recipients Anticipating Workers’ Compensation Benefits.....	90
Recipients of SSI	91
Relatives	91
 Article IX – Severability.....	 92
 Appendixes	
Appendix A – GA Overall Maximums	
Appendix B – Food Maximums	
Appendix C – GA Housing Maximums	
Appendix D – Electric Utility Maximums	
Appendix E – Heating Fuel	
Appendix F – Household & Personal Items	
Appendix G –Mileage Rate	
Appendix H – Funeral Maximums	
Appendix I – Definition of Misconduct (26 MRSA § 1043(23))	

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
- budget sheets
- information concerning the types and amounts of assistance provided
- narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less)
- written decisions
- requests for fair hearings and the fair hearing authority decisions
- workfare participation records
- repayments to the municipality
- narrative writings documenting the need for 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; | e) all household income, resources, assets, and property; |
| b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other household members for whom the applicant is seeking assistance; | f) household expenses; |
| c) total number of individuals living with the applicant; | g) types of assistance being requested; |
| d) employment and employability information; | 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's 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.

GA Overall Maximums

Metropolitan Areas

Persons in Household

COUNTY	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	579	669	845	1,061	1,223
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	576	576	690	874	1,056
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	529	626	818	1,031	1,094
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	750	888	1,148	1,444	1,546
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	936	939	1,123	1,635	1,779
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	623	731	941	1,244	1,483

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	742	742	887	1,117	1,533
York County HMFA: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	678	704	891	1,191	1,233

***Note: Add \$68 for each additional person.**

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	506	539	644	840	929
Franklin County	555	585	711	856	1,217
Hancock County	594	683	842	1,116	1,146
Kennebec County	507	587	750	952	1,015
Knox County	698	709	865	1,110	1,259
Lincoln County	649	717	904	1,126	1,208
Oxford County	543	602	726	979	1,268
Piscataquis County	564	641	791	1,004	1,073
Somerset County	573	600	715	972	988
Waldo County	633	677	815	1,014	1,078
Washington County	544	585	697	863	1,045

*** Please Note: Add \$68 for each additional person.**

Appendix B
Effective: 10/01/13 to 09/30/14

Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. Through September 30, 2014, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	46.51	200
2	85.35	367
3	122.33	526
4	155.35	668
5	184.42	793
6	221.40	952
7	244.65	1,052
8	279.53	1,202

Note: For each additional person add \$150 per month.

Appendix C

Effective: 10/01/13 to 09/30/14

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>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		82	353	106	455
1		82	353	107	460
2		93	401	130	558
3		120	514	166	714
4		124	535	181	777
<u>Franklin County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		95	408	117	505
1		97	418	121	520
2		114	491	144	620
3		135	579	181	779
4		206	887	263	1,129
<u>Hancock County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		105	451	124	533
1		117	503	140	602
2		145	622	180	775
3		197	845	240	1,031
4		197	845	241	1,035
<u>Kennebec County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		83	359	106	454
1		94	404	123	527
2		123	529	159	682
3		159	685	200	862
4		159	685	212	911

Non-Metropolitan FMR Areas

<u>Knox County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	128	552	150	647
1	128	552	150	643
2	150	645	186	798
3	197	846	240	1,032
4	209	899	252	1,083
<u>Lincoln County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	119	513	132	568
1	124	535	145	622
2	159	684	195	837
3	200	862	244	1,048
4	207	889	260	1,118
<u>Oxford County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	89	382	114	490
1	101	434	120	516
2	113	487	153	657
3	161	693	209	900
4	216	928	274	1,179
<u>Piscataquis County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	96	413	111	479
1	103	441	125	539
2	123	527	154	663
3	157	675	196	844
4	157	675	205	881
<u>Somerset County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	94	405	122	523
1	94	405	126	542
2	107	459	151	650
3	164	703	209	899
4	164	703	209	899

Non-Metropolitan FMR Areas

<u>Waldo County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		116	497	128	552
1		119	510	136	583
2		139	597	162	698
3		174	749	217	935
4		176	758	230	987
<u>Washington County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		93	402	108	463
1		95	410	118	507
2		108	465	141	607
3		134	575	182	782
4		163	703	222	954

Metropolitan FMR Areas

<u>Bangor HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		100	432	123	527
1		113	487	142	610
2		145	625	181	778
3		183	789	227	975
4		210	904	263	1,133
<u>Penobscot County HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		99	424	114	491
1		99	424	114	491
2		100	429	131	565
3		136	587	172	741
4		155	668	214	919
<u>Lewiston/Auburn MSA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		89	381	111	476
1		103	445	132	566
2		139	597	174	750
3		178	766	221	952
4		180	774	233	1,003

Metropolitan FMR Areas

<u>Portland HMFA</u>			<u>Unheated</u>			<u>Heated</u>		
Bedrooms			Weekly	Monthly		Weekly	Monthly	
0			142	611		154	666	
1			166	715		183	788	
2			214	922		238	1023	
3			271	1165		300	1292	
4			274	1180		318	1367	
<u>York/Kittery/S. Berwick HMFA</u>			<u>Unheated</u>			<u>Heated</u>		
Bedrooms			Weekly	Monthly		Weekly	Monthly	
0			170	729		182	784	
1			170	729		182	784	
2			191	823		221	949	
3			289	1241		318	1368	
4			300	1289		343	1473	
<u>Cumberland County HMFA</u>			<u>Unheated</u>			<u>Heated</u>		
Bedrooms			Weekly	Monthly		Weekly	Monthly	
0			111	479		124	534	
1			131	563		148	636	
2			167	720		119	821	
3			228	982		259	1115	
4			271	1167		308	1326	
<u>Sagadahoc County HMFA</u>			<u>Unheated</u>			<u>Heated</u>		
Bedrooms			Weekly	Monthly		Weekly	Monthly	
0			140	603		153	658	
1			140	603		153	658	
2			155	667		179	768	
3			186	798		228	976	
4			271	1167		314	1351	
<u>York County HMFA</u>			<u>Unheated</u>			<u>Heated</u>		
Bedrooms			Weekly	Monthly		Weekly	Monthly	
0			126	541		139	596	
1			126	541		147	633	
2			156	672		188	810	
3			216	928		259	1,114	
4			216	928		266	1,143	

Appendix D

Effective: 10/01/13 to 09/30/14

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>	Monthly
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.20	\$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	\$19.10	\$82.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$37.30	\$160.00
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

Effective: 10/01/13 to 09/30/14

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

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

Mileage Rate

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents (44¢) per mile.

Please refer to the Office of State Controller for changes to this rate: Telephone: 626-8420 or visit: <http://www.state.me.us/osc/>

Funeral Maximums

Burial Maximums

The maximum amount of general assistance granted for the purpose of burial is **\$1,125**. Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and
- a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

- removal of the body from a local residence or institution
- a secured death certificate or obituary
- embalming
- a minimum casket
- a reasonable cost for necessary transportation
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

Cremation Maximums

The maximum amount of assistance granted for a cremation shall be **\$785**. Additional costs may be allowed by the GA administrator where there is an actual cost, for:

- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$50
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

26 MRSA §1043 (23)

Misconduct. “Misconduct” means a culpable breach of the employee’s duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee’s entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge. [1999, c. 464, §2 (rpr).]

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute “misconduct” as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee’s eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee’s qualifications to perform the work; or
- (14) Absence for more than 2 work days due to incarceration for conviction of a crime.

Appendix I

[1999, c. 464, §2 (new).]

B. “Misconduct” may not be found solely on:

- (1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
- (2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer’s notification rules and policies; or
- (3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.

[1999, c. 464, §2 (new).]

TOWN OF CHELSEA

MINIMUM LOT SIZE ORDINANCE

PART 1. TITLE:

This ordinance shall be known and cited as the Chelsea Minimum Lot Size.

PART 2. PURPOSE:

The purpose of this ordinance is to promote the general welfare and safety of the citizens of the Town of Chelsea.

PART 3. DEFINITIONS:

Section A. Lots of Record: a parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on the files of the County Register of Deeds or in common use by the Town or County Officials.

Section B. Lots of Non-Conforming: a parcel of land, which does not meet the minimum areas and frontage requirements of this ordinance.

Section C. Conforming Lots: a parcel of land which shall not be less than 87,120 square feet (two acres) and also having at least 200 feet frontage on a public road and/or private road or way.

Section D. Multiple Residential Units: if more than one residential unit is constructed or located on a single lot, the minimum lot size must contain two acres for each additional unit beyond the first.

PART 4. STATUTORY AUTHORITY:

This ordinance is adopted pursuant to the “home rule” provision of Title 30-A, of Title 30-A, M.R.S.A., Section 3001. and the police power provisions of Title 30-A, M.R.S.A., Section 2151(4).

PART 5. APPLICABILITY:

Notwithstanding Sections A & B below, the provision of this ordinance shall apply to all new, altered, relocation of lots of record, and shall include the placement of mobile homes.

Section A. Non-Conforming Lots of Record: a non-conforming lot of record as of December 8, 1987 may have its non-conforming lot area added to resulting in more conformance to present lot dimension requirements. Any increase in lot area or lot frontage, which still results in non-conformance will not cause the non-conforming lot to lose its grand fathered status.

Section B. Reduction of Lot Size by eminent domain or other sacrifice for the public at large to benefit: If a property owner is made to sacrifice a portion of their land for electrical lines, road widening, pipe lines, or other unforeseen event, the result may be that the modified lot becomes non-conforming. Such lots will also be considered grand fathered.

PART 6. SCOPE:

Hereafter, all lots of record, except where as provided, shall be of conforming lots as defined in Part 3, Section C.

This requirement shall apply to single lots of record and also newly created subdivisions.

Any lots of non-conforming which were lots of record on December 8, 1987 may continue and be maintained and improved, provided that any structures placed or expanded shall conform to all other applicable Town Ordinances and Maine State Plumbing Code. Non-conforming structures which existed as of December 8, 1987, may be replaced within two years of destruction and removal.

Notwithstanding the above requirements, should a building permit for a single family dwelling be submitted for a lot of "Non Conforming" which was not a lot of record on December 8, 1987, but which contains the required 87,120 square feet (two acres) in area and has legal access to a street, way or right of way, either by ownership or easement, provided that access is a minimum of 20 feet in width, shall be found to meet the minimum requirement for the issue of the required building permit for a single family dwelling and accessory structures only, providing all other Town Ordinances and State Statutes are complied with.

If two or more contiguous lots of record are owned by the same person or persons at the time of revision of these or subsequent revisions of this ordinance, if either or any of these lots do not individually meet the dimensional requirements of this ordinance or subsequent revisions and if two or more of the lots are vacant or contain only an accessory structure, the lots shall be combined to the extent necessary to meet the dimensional standards except where the lots are legally created as part of a recorded subdivision.

PART 7. ADMINISTRATION/ENFORCEMENT:

This ordinance shall be administered by the Chelsea Board of Selectmen and or the Chelsea Planning Board. The enforcement of this ordinance shall be by the Code Enforcement Officer of the Town of Chelsea under the direction of the Town Manager. The manager shall report all known violations to the proper administrative Board within a reasonable time.

PART 8. APPEALS:

Any person aggrieved by the decision of the CEO to approve a permit as outlined under this ordinance, may appeal the decision to the Board of Appeals within thirty (30) days of the CEO's decision. The notice of appeal shall clearly state the reason(s) for the appeal.

PART 9. PENALTIES:

Any person or entity found to be in violation of this ordinance shall be notified by the CEO, in writing, of such violation and provided sufficient time to correct said violation, as determined by the CEO. Any person or entity who continues to violate this ordinance after being properly notified shall be fined in accordance with Title 30-A M.R.S.A. sec. 4452. In addition, each day such violation(s) continues after proper notification shall constitute a separate offense.

PART 10. VALIDITY AND SEVERABILITY:

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

PART 11. EFFECTIVE:

This ordinance shall become effective when enacted by the voters of the Town of Chelsea, Maine.

Approved at: Special Town Meeting
Date: June 28, 1994

Amended at: Special Town Meeting
Date: June 10, 1996

Amended at: Special Town Meeting
Date: September 29, 1998

Amended at: Annual Town Meeting
Date: June 14, 2007

Amended last at: Annual Town Meeting
Effective Date: June 13, 2013

**TOWN OF CHELSEA
MOBILE HOME INSTALLATION ORDINANCE**

- PART 1. TITLE:
This ordinance shall be known and cited as the "Town of Chelsea Mobile Home Installation ordinance."
- PART 2. PURPOSE:
The purpose of this ordinance is to promote the general welfare and safety of the citizens of the Town of Chelsea by providing adequate controls to insure that certain mobile homes over 20 years of age from date of manufacture are inspected and found safe for occupancy.
- PART 3. DEFINITIONS:
Mobile Home: A mobile home is a manufactured home which is transportable in one or more sections and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including the plumbing heating, air conditioning or electrical systems contained therein.
- PART 4. STATUTORY AUTHORITY:
This ordinance is adopted pursuant to the "home rule" provision of Title 30- M.R.S.A., Section 2101 and the police power provisions of Title 30-A, M.R.S.A., Section 3001 et seq and the Constitution Article 8, part 2
- PART 5. SCOPE:
Here after all mobile homes ~~over 20 years of age from the date of manufacture~~ **manufactured prior to June 15th 1976** which are either relocated into the Town of Chelsea or located in the Town of Chelsea and sold shall be required to be inspected by a Master Electrician, Master Plumber and licensed oil burner technician to insure that the basic life safety components of the mobile home are safe. These inspections must be completed and sign off is required from each of the above listed technicians on the applicable mobile home installation application sheet. The burden of proof for determination of the age of a mobile home from date of manufacture is on the applicant. Mobile homes ~~which are documented to be less than 20 years of age~~ **manufactured after June 15th, 1976** are exempt from the above listed inspections. Mobile homes over 20 years of age which are relocated from one lot to another in Chelsea but still resided in by the same occupant are also exempt from the above listed inspections.

Enacted: March 27, 1997

Amended: April 22, 2009

MOBILE HOME PARK ORDINANCE

1. MOBILE HOME PARK DEFINED:

"Mobile Home Park" means a parcel of land under unified ownership approved by the municipality for the placement of three (3) or more manufactured homes.

"Mobile Home Park Lot" means an area of land on which an individual home is situated within a Mobile Home Park and which is reserved for use by the occupants of that home.

The Town of Chelsea requires the lots to be designated on the Mobile Home Park Plan.

2. Initial application shall be accompanied by a set of plans drawn to scale and set forth to show the following information:

a. The area, dimensions and recorded owner of the land upon which the park is to be located. Also, a plan showing the perimeter of the whole parcel of land and showing the proposed Mobile Home Park location.

b. A Mobile Home Park must have at least three (3) or more individual lots. The lots shall be no less than 20,000 square feet. Except where provided in M.R.S.A. Title 30 Section 4358, which states that the overall density of a Mobile Home Park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area.

c. Mobile Homes shall be placed so that no point on any Mobile Home shall be less than thirty (30) feet from another Mobile Home or Park boundary.

d. Any Mobile Home Park consisting of ten (10) or more Mobile Homes shall have an additional one-tenth (1/10) acre per home set aside in a separate lot and designated as an area for open space, storage or recreation.

e. No Mobile Home in any Mobile Home Park shall be any closer than two hundred (200) feet from other existing dwellings, other than the dwelling of the park owner if so desired.

f. Location, Width and Surface of Roads. The roads, if to remain private, shall be built to acceptable engineering standards and with a professional engineers seal as required by the manufacturing

housing board. The road shall have a right-of-way of twenty-three (23) feet, 20 of which the town requires to be paved. The road shall conform to reasonable safety standards applicable to intersections with public ways adjacent to the Mobile Home Park. In accordance with M.D.O.T. standards: if roads are to be offered for acceptance to the Town of Chelsea, they shall meet all currently in effect road standard ordinances.

g. Method of Garbage and Waste Control. Attach contract from licensed solid waste hauler, and HHE 200 (Plumbing Application) for on-site disposal or central engineered on-site disposal system along with a performance bond for 110% of completed central system cost.

h. Location of Sewer and Water Lines.

i. Upon approval of said plans by the Planning Board and Selectmen, a permit shall be issued for construction of a Mobile Home Park for a fee of Twenty-five (\$25.00) Dollars per Mobile Home Park Lot.

j. Licenses shall be renewed January 1 of each year for a fee of twenty five (\$25.00) dollars per Mobile Home Lot. At this time the park operator shall provide an updated performance bond, name and mailing address or any other information required for tax assessment purposes.

k. Any proposed alterations and or modifications shall be treated as a new application and procedures outlined in this ordinance shall apply.

3. New Owners Responsibility: Any person or persons purchasing a Mobile Home Park not meeting code specifications shall have the right to operate said park and shall be given one (1) year in which to meet requirements of said code, provided said park meets accepted standards of health and sanitation.
4. Deviation: Failure to construct a Mobile Home Park in accordance with the application as approved by the Planning Board and Selectmen shall constitute a violation of this code.

5. Travel Trailers: This code shall not apply to travel trailers or to recreational parks or recreation areas designated to provide facilities and/or parking spaces for travel trailers.
6. Validity and Application: Should any provision of this code be deemed by the courts invalid, the remaining portions of said code shall remain in full force and effect. All the laws of the Town of Chelsea which are in conflict with any provisions found herein, are hereby repealed to the extent that a conflict exists.
7. Penalties for Violation of Code: Any person or persons, firm or corporation being the owner or having control of any buildings or part thereof by deed, lease or otherwise which violates any of the provisions thereof in relation to the matters and things herein contained, or any persons or persons, firm or corporation acting for him or them who shall assist in the violation of this code or any permit issued thereunder, shall be notified of such to comply. Such violator shall have forty-five (45) days to comply. If the violator has not made compliance within forty-five(45) days, he or she shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of no less than seventy-five (\$75.00) dollars. Each day of non-compliance following conviction shall constitute a separate violation.
8. It shall be the park owners and/or operators responsibility to see that the appropriate building and plumbing permits are acquired prior to placement of the Mobile Home on the Mobile Home Park Lot. The owner shall be held responsible for unpaid taxes on Mobile Homes and shall be a condition of the license renewal. Park owners and/or operators shall allow the Town and its officials rights of entrance and exits in their parks.
9. No lot in a Mobile Home Park may be sold or conveyed without the prior approval of the Chelsea Planning Board and the Chelsea Board of Selectmen. Any such lot sold or conveyed shall meet the requirements for lots out of the park area that is currently in effect with the Town of Chelsea.
10. Effective Date: The ordinance shall take effect on the date of its acceptance by the Inhabitants of the Town of Chelsea, and shall repeal a March 1970 Mobile Home Park Defined, Article 26 Ordinance.

Enacted: March 26, 1990

**TOWN OF CHELSEA
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

Administration by the Efficiency Maine Trust

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose

By and through this Chapter, the Town of CHELSEA declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

§ XX-2 Enabling Legislation

The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE II - TITLE AND DEFINITIONS

§ XX-3 Title

This Ordinance shall be known and may be cited as “the Town of CHELSEA Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

§ XX-4 Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

- 1. Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:
 - A. Will result in increased energy efficiency and substantially reduced energy use and:
 - (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
 - B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.
- 2. Municipality.** “Municipality” shall mean the Town of CHELSEA.
- 3. PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.
- 4. PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
- 5. PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

- 6. PACE loan.** “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.
- 7. PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
- 8. PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
- 9. Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.
- 10. Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
- 11. Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III - PACE PROGRAM

- 1. Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.
- 2. Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of

home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Attest: A True Copy:

Lisa Gilliam, Town Clerk

Chelsea Planning Board Ordinance

1.Establishment. Pursuant to Art. VIII, Pt 2, Sec. 1 of the Maine Constitution and 30-A M.R.S.A., the town of Chelsea hereby establishes a planning board. The board which has been acting as a planning board for the town of Chelsea is hereby reestablished as the legal planning board for the purposes of this ordinance. The actions which that board took prior to the adoption of this ordinance are hereby declared to be the acts of the legally constituted planning board of the Town of Chelsea.

A. QUALIFICATIONS: To serve on the planning board a person must be 18 years old, a resident of Chelsea and a US citizen.

2. Appointment.

A. Board members must be ~~appointed by the selectpersons~~ elected at the Town Meeting and sworn by the clerk or other person authorized to administer oaths.

B. The board shall consist of five (5) members and two (2) associate members.

C. The term of each member shall be five (5) years, except the initial appointments which shall be for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, one (1) for five (5) years respectively. The term of an associate member shall be five (5) years. Those members currently serving shall finish their terms and may be ~~re-appointed~~ re-elected for subsequent terms.

D. When there is a permanent vacancy, ~~the selectpersons shall~~ the select persons, within thirty (30) days of its occurrence, may either appoint a person to ~~serve for the unexpired term~~ fill the vacancy for the remainder of the term or leave the position unfilled. A Permanent vacancy shall occur upon the resignation or death of a member or the member is no longer a citizen of Chelsea or is physically unable to serve. ~~or when a member fails to attend four (4) consecutive regular meetings, or when a member fails to attend at least seventy five percent (75%) of all regular meetings during the past twelve (12) month period. The board may recommend to the selectpersons that the attendance provision be waived for cause, in which case no vacancy will then exist until the selectpersons disapprove the recommendation. The selectpersons may remove members of the planning board by unanimous vote, for cause, after written notice and hearing.~~

E. A selectperson may not be a member or associate member.

3. Organization and Rules;

A. The board shall elect a chairperson and vice chairperson from among its members. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. The term of all officers of the board shall be one (1) year with eligibility for re-election.

B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an associate member to sit in that members stead.

C. An associate member should attend all meetings of the board and participate in the proceedings, but shall vote only when he or she has been designated by the chairperson to sit for a member.

D. Any question of whether a member must be disqualified from voting on a particular matter must be decided by a majority vote of the members except the member who is being challenged.

E. The chairperson must call at least one regular meeting of the board each month.

F. No meeting of the board shall be held without a quorum consisting of three (3) members or associate members authorized to vote. The board must act by majority vote, calculated on the basis of the number of members present and voting.

G. The board must adopt rules for transaction of business and the secretary must keep a record of its transactions, correspondence, findings and determinations. All records must be deemed public and may be inspected at reasonable times.

4. Duties; Powers;

A. The board shall perform such duties and exercise such powers as are provided by Chelsea ordinance and the laws of the state of Maine

B. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

C. Planning board members shall serve as voting members of the Chelsea budget committee. An associate member may be designated to vote by the budget committee chair in the absence of a planning board member.

Enacted; September 8, 1998

Amended: February 19th, 2008

TEMPORARY CLOSING OF TOWN ROADS ORDINANCE

Section 1. Purpose and Authority

The purpose of this ordinance is to prevent damage to town ways and bridges in the Town of Chelsea which may be caused by vehicles excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges and to reduce the public expense of their maintenance and repair.

This ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §902 and 1011

Section 2. Definitions

The definitions contained in Title 29-A M.R. S.A. shall govern the construction of words contained in this ordinance. Any words not defined therein shall be given their common and ordinary meaning.

Section 3. Restrictions and Notices

The Municipal Officers or Road Commissioner may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgement, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the time on which the notice was posted, and the signatures of the Municipal Officers or Road Commissioner.

The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled-way. Whenever a restriction expires or is lifted the notices shall be removed wherever posted. Whenever a restriction is revised or extended the existing notices shall be removed and replaced with new notices.

No person may remove, obscure, or otherwise tamper with any notice so posted except as provided herein.

Section 4. Exemptions

The following vehicles are exempt from this ordinance.

- (a) Any two-axle vehicle while delivering home heating fuel

- (b) Any vehicle while engaged in highway maintenance or repair under the direction of the State or Town;
- (c) Any emergency vehicle (such as fire fighting apparatus or ambulances) while responding to an emergency;
- (d) Any school transportation vehicle while transporting students;
- (e) Any public utility vehicle while providing emergency service or repairs;
- (f) Any vehicle whose owner or operator holds a valid permit from the Municipal Officers or Road Commissioner as provided herein.

Section 5. Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Municipal Officers or Road Commissioner for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:

- (a) No other route is reasonably available to the applicant;
- (b) It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) The owner or operator has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient to repair any damage to the way or bridge which may reasonably result from the owner or operator's use of the same. The Municipal Officers or Road Commissioner will determine the amount of the bond depending on the circumstances.

Even if the Municipal Officers or Road Commissioner make the foregoing findings, a permit need not be issued if it is determined the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highway.

In determining whether to issue a permit, the Municipal Officers or Road Commissioner shall consider the following factors:

- (a) The gross registered weight of the vehicle;
- (b) The current and anticipated condition of the way or bridge;
- (c) The number and frequency of vehicle trips proposed;

- (d) The cost and availability of materials and equipment for repairs;
- (e) The extent of use by other exempt vehicles; and
- (f) Such other circumstances as may, in their judgment, may be relevant.

The Municipal Officers or Road Commissioner may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement

This ordinance shall be administrated and may be enforced by the Municipal Officers or the Road Commissioner.

Section 7. Penalties

Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$250.00 or more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the Town may pursue legal action to recover the cost of repairs to any damaged way or bridge and will be entitled to reasonable attorney fees and costs.

Prosecution shall be in the name of the Town and shall be brought in the Maine District Court.

Section 9. Severability; Effective Date

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

This ordinance shall take effect immediately upon enactment by the Municipal Officers at any properly noticed meeting.

Adopted by the Municipal Officers this 23rd day of March 2016

Benjamin Smith

Michael Pushard

Richard Danforth

Attested:

Shoreland Zoning Ordinance for the Municipality of Chelsea

**Town of Chelsea
Shoreland Zoning Ordinance
Table of Contents**

1. Purposes.....	4
2. Authority.....	4
3. Applicability.....	4
4. Effective Date of Ordinance and Ordinance Amendments	4
5. Availability.....	4
6. Severability.....	5
7. Conflicts with Other Ordinances.	5
8. Amendments.	5
9. Districts and Zoning Map	5
A. Official Shoreland Zoning Map.....	5
B. Scale of Map.....	5
C. Certification of Official Shoreland Zoning Map.	5
D. Changes to the Official Shoreland Zoning Map.	5
10. Interpretation of District Boundaries.	6
11. Land Use Requirements.	6
12. Nonconformance.....	6
A. Purpose.....	6
B. General	6
C. Nonconforming Structures	6
(1) Expansions.....	6
(2) Foundations.....	9
(3) Relocation.....	9
(4) Reconstruction or Replacement.	10
(5) Change of Use of a Nonconforming Structure.	10
D. Nonconforming Uses	11
E. Nonconforming Lots	11
13. Establishment of Districts.....	12
A. Resource Protection District.	12
B. Limited Residential District.....	13
C. Limited Commercial District.	13
D. General Development I District.	13
E. General Development II District.	14
F. Commercial Fisheries/Maritime Activities District.	14
G. Stream Protection District.	15
14. Table of Land Uses.....	15

**Town of Chelsea
Shoreland Zoning Ordinance**

15.	Land Use Standards.	17
A.	Minimum Lot Standards	17
B.	Principal and Accessory Structures	18
C.	Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending or Located Below the Normal High-Water Line of a Water Body or Within a Wetland; and Shoreline Stabilization.	22
D.	Campgrounds.	23
E.	Individual Private Campsites.	24
F.	Commercial and Industrial Uses.	25
G.	Parking Areas	25
H.	Roads and Driveways.	26
I.	Signs.	28
J.	Storm Water Runoff	28
K.	Septic Waste Disposal	29
L.	Essential Services.....	29
M.	Mineral Exploration and Extraction.	29
N.	Agriculture.....	31
O.	Timber Harvesting - Repealed.....	31
P.	Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting	31
Q.	Hazard Trees, Dead Trees and Storm-Damaged Trees.....	34
R.	Exemptions to Section 15(P).....	35
S.	Revegetation Requirements	37
T.	Erosion and Sedimentation Control.....	38
U.	Soils.	40
V.	Water Quality.	40
W.	Archaeological Site.	40
16.	Administration	40
A.	Administering Bodies and Agents	40
B.	Permits Required.	41
C.	Permit Application	41
D.	Procedure for Administering Permits.....	42
E.	Special Exceptions.....	43
F.	Expiration of Permit.....	43
G.	Installation of Public Utility Service.	44
H.	Appeals	44
I.	Enforcement.....	47
17.	Definitions	48

Town of Chelsea

Shoreland Zoning Ordinance

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 435-448 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 great ponds; within 250 feet, horizontal distance, of the normal high-water line of rivers; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 75 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.

NOTE: Terms are defined in Section 17, including but not limited to: coastal wetland, freshwater wetland, great pond, river and stream.

4. Effective Date of Ordinance and Ordinance Amendments

This Ordinance, which was adopted by the municipal legislative body on June 16, 2016, 2017 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.

Town of Chelsea Shoreland Zoning Ordinance

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) Limited Residential
- (3) Limited Commercial
- (4) General Development I
- (5) General Development II
- (6) Commercial Fisheries/Maritime Activities
- (7) 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.

Town of Chelsea Shoreland Zoning Ordinance

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. Nonconformance

NOTE: Refer to Section 17 for definitions of nonconforming condition, nonconforming lot, nonconforming structure and nonconforming use.

A. Purpose.

It is the intent of this Ordinance to promote land use conformities, except that nonconforming 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 nonconforming condition shall not be permitted to become more nonconforming.

B. General

- (1) **Transfer of Ownership.** Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming 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 nonconforming uses and structures including repairs or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

C. Nonconforming Structures

(1) Expansions.

All new structures must meet the shoreline setback requirements contained in Section 15(B). A nonconforming structure may be added to or expanded after

Town of Chelsea Shoreland Zoning Ordinance

obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with the subsections of Section 12(C)(1).

- (a) 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) 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.
- (c) Notwithstanding Section 12(C)(1)(b), 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 standards of this Ordinance are met and the expansion is not prohibited by Section 12(C)(1) above:
 - (i) The maximum total footprint of the principal structure may not be expanded to an area greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
 - (ii) 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.
- (d) All other 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 standards of this Ordinance are met and the expansion is not prohibited by Section 12(C)(1) and subsections (a), (b) or (c) above:
 - (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to an area greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
 - (ii) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
 - (iii) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum combined total

Town of Chelsea Shoreland Zoning Ordinance

footprint of all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.

- (iv) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
- (v) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, any portion of those structures located less than 75 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 requirements of Sections 12(C)(1)(d)(i) and (ii).
- (e) In addition to the limitations in Section 12(C)(1) and subsections (a), (b) and (c) above, structures that are nonconforming due to their location within the Resource Protection District and are located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:
 - (i) The maximum combined total footprint of all structures may not be expanded to an area 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.
 - (ii) The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
 - (iii) Any portion of the structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, must meet the footprint and height requirements of Sections 12(C)(1)(d)(iii) and (iv).
 - (iv) Any portion of the structures located less than 75 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 requirements of Sections 12(C)(1)(d)(i) and (ii).
- (f) Any approved plan for expansion of a nonconforming structure under Section 12(C)(1) must be recorded by the applicant in the registry of deeds of the county in which the property is located within 90 days of approval. The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary and evidence of approval by the municipal permitting authority.

Town of Chelsea Shoreland Zoning Ordinance

(2) Foundations.

Whenever a new, expanded or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the shoreline 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) below.

(3) Relocation.

A nonconforming 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 nonconforming.

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 addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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.

Town of Chelsea Shoreland Zoning Ordinance

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.

The Planning Board may also require replanting in accordance with Section 15(S).

(4) Reconstruction or Replacement.

Any nonconforming 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 Section 12(C)(3) above. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

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 nonconforming footprint of the reconstructed or replaced structure at its new location. If the total amount of 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 nonconforming 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 Nonconforming Structure.

The use of a nonconforming 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.

Town of Chelsea Shoreland Zoning Ordinance

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. Nonconforming Uses

(1) Expansions.

Expansions of nonconforming uses are prohibited, except that nonconforming 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 nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming 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 nonconforming use may be changed to another nonconforming 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. Nonconforming Lots

- (1) **Nonconforming Lots:** A nonconforming 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 nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12

Town of Chelsea Shoreland Zoning Ordinance

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 nonconforming, owned by the same person or persons on March 23, 1993, 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) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are

Town of Chelsea Shoreland Zoning Ordinance

contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water.

"Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river. Also included in this district are areas within 250 feet, horizontal distance, of the upland edge of salt marshes and salt meadows which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the MDIF&W as of January 1, 1973.

- (2) 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.
- (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (4) 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.

- (5) 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. Limited Residential District.

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts, or the Commercial Fisheries/Maritime Activities District.

C. Limited Commercial District.

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. General Development I District.

The General Development I District includes the following types of existing, intensively developed areas:

Town of Chelsea Shoreland Zoning Ordinance

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
 - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

E. General Development II District.

The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

In areas adjacent to great ponds and adjacent to rivers flowing to great ponds, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds, and adjacent to rivers that flow to great ponds.

F. Commercial Fisheries/Maritime Activities District.

The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

Town of Chelsea Shoreland Zoning Ordinance

G. Stream Protection District.

The Stream Protection District includes all land areas within seventy-five (75) 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

GD - General Development I and General Development II

LR - Limited Residential

CFMA - Commercial Fisheries/Maritime Activities

LC - Limited Commercial

SP - Stream Protection

NOTE: Terms are defined in Section 17, including but not limited to: functionally water-dependent uses.

Town of Chelsea Shoreland Zoning Ordinance

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u>LAND USES</u>	<u>DISTRICT</u>					
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>	<u>CFMA</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes
3. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	yes	yes	yes
4. Fire prevention activities	yes	yes	yes	yes	yes	yes
5. Wildlife management practices	yes	yes	yes	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes	yes	yes	yes
7. Mineral exploration	no	yes ²	yes ²	yes ²	yes ²	yes ²
8. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB	PB	PB
9. Surveying and resource analysis	yes	yes	yes	yes	yes	yes
10. Emergency operations	yes	yes	yes	yes	yes	yes
11. Agriculture	yes	PB	yes	yes	yes	yes
12. Aquaculture	PB	PB	PB	yes	yes	yes
13. Principal structures and uses						
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO	CEO	no
B. Multi-unit residential	no	no	PB	PB	PB	no
C. Commercial	no ¹⁰	no ¹⁰	no ¹⁰	PB	PB	PB ⁵
D. Industrial	no	no	no	no	PB	PB ⁵
E. Governmental and institutional	no	no	PB	PB	PB	PB ⁵
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO	PB ⁵
14. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO	yes	yes
15. Piers, docks, wharfs, bridges and other structures and uses extending or located below the normal high-water line or within a wetland						
a. Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
b. Permanent	PB	PB	PB	PB	PB	PB ⁵
16. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	no
17. Home occupations	PB	PB	PB	CEO	yes	yes
18. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI
19. Essential services						
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²	yes ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB	PB
20. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes	yes
21. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO ⁵
22. Individual private campsites	CEO	CEO	CEO	CEO	CEO	CEO
23. Campgrounds	no	no ⁷	PB	PB	PB	no
24. Road construction	PB	no ⁸	PB	PB	PB	PB ⁵
25. Parking facilities	no	no ⁷	PB	PB	PB	PB ⁵
26. Marinas	PB	no	PB	PB	PB	PB
27. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes	yes
28. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO	CEO
29. Signs	yes	yes	yes	yes	yes	yes
30. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
31. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
32. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

¹In RP not allowed within 75 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.

⁶See further restrictions in Section 15(L).

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).

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.

Town of Chelsea Shoreland Zoning Ordinance

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*.

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

(1)	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

Town of Chelsea Shoreland Zoning Ordinance

- (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 and rivers that flow to great ponds, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. 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.

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

In addition:

- (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

Town of Chelsea Shoreland Zoning Ordinance

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, 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) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
- (d) On a nonconforming 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 non-vegetated surfaces and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

NOTE: Refer to Section 17 for definitions of coastal wetland and tributary stream.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height.

- (a) This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

- (b) The height of a structure shall exclude a nonhabitable feature mounted on a structure roof for observation purposes, such as a cupola, a dome or a widow's walk, provided the following conditions are met:

- (i) the feature is being added to, or is part of, a conforming structure,
 - (ii) the structure is not located in a Resource Protection or Stream Protection District,

Town of Chelsea Shoreland Zoning Ordinance

- (iii) the feature does not extend beyond the exterior walls of the structure,
- (iv) the feature has a floor area of fifty-three (53) square feet or less, and
- (v) the feature does not increase the height the structure, as defined, more than seven (7) feet.

- (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 floodplain soils. Accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance that is consistent with the April 2005 or later version under the National Flood Insurance Program.
- (4) Except in the shoreland zone of coastal wetlands and rivers that do not flow to great ponds that are designated as General Development or Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed twenty (20) percent of the portion of the lot located within the shoreland zone. In the shoreland zone of coastal wetlands and rivers that do not flow to great ponds that are designated as General Development or Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed seventy (70) percent of the portion of the lot within the shoreland zone. 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 non-vegetated surfaces for lots that were recorded on March 24, 1990, and that have been in continuous existence since that date.

Section 15(B)(4) shall not apply to public boat launching facilities, regardless of the district in which the facility is located.

- (5) 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;
 - (c) 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;
 - (d) The total height of the wall(s), in the aggregate, is 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

Town of Chelsea Shoreland Zoning Ordinance

Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain 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.

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

- (6) 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.
- (7) Notwithstanding the requirements in Section 15(B)(1) above, the permitting authority may approve a deck over a river if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, which may include the revitalization of structures formally used as mills that do not meet the setback requirements, provided that the following requirements are met:

Town of Chelsea Shoreland Zoning Ordinance

- (a) The total deck area attached to the structure does not exceed seven hundred (700) square feet;
- (b) The deck is cantilevered over a segment of the 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; and
- (d) The construction of the deck complies with all other applicable standards, except the setback requirements in Section 15(B)(1).

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending or Located Below the Normal High-Water Line of a Water Body or Within a Wetland; and Shoreline Stabilization.

- (1) No more than one 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 or located below 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.

Town of Chelsea Shoreland Zoning Ordinance

NOTE: A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as, a watercraft.

- (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 or located below 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 or located below 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.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

- (10) The Planning Board may approve shoreline stabilization of an eroding shoreline, provided that the following requirements are met:
 - (a) Construction equipment must access the shoreline by barge when feasible, as determined by the Planning Board.
 - (b) When necessary, the removal of vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the shoreline stabilization is complete, the construction equipment access way must be restored.
 - (b) Any restoration or revegetation shall occur in accordance with Section 15(S).

NOTE: A permit pursuant to the Natural Resources Protection Act is required from the Department of Environmental Protection for shoreline stabilization activities.

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

Town of Chelsea Shoreland Zoning Ordinance

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 or a river flowing to a great pond, and seventy-five (75) 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) On a vacant lot, 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) On a lot that contains a principal use or structure, the lot shall contain the minimum lot dimensional requirements for that principal use or structure separately from the thirty thousand (30,000) square feet of lot area within the shoreland zone required per individual private campsite.
- (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 or river flowing to a great pond, and seventy-five (75) 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.

Town of Chelsea Shoreland Zoning Ordinance

F. Commercial and Industrial Uses.

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds, and rivers and streams which flow to great ponds:

- (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:

Town of Chelsea Shoreland Zoning Ordinance

(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 or a river that flows to a great pond, and seventy-five (75) 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 permanent roads are not allowed within the shoreland zone along Significant River Segments except:

(a) To provide access to structures or facilities within the zone; or

(b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

Town of Chelsea Shoreland Zoning Ordinance

- (4) 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.
- (5) 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).
- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (7) 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.
- (8) 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.

Town of Chelsea Shoreland Zoning Ordinance

- (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.
- (9) 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, Stream Protection, Limited Residential and Limited Commercial 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 by shielded, non-flashing lights.

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.

Town of Chelsea Shoreland Zoning Ordinance

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

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 (75) 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.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

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. Mineral Exploration and Extraction.

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal

Town of Chelsea Shoreland Zoning Ordinance

disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- (4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
- (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

Town of Chelsea Shoreland Zoning Ordinance

- (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. 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 or a river flowing to a great pond, or within seventy-five (75) 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. Nonconformance 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; within seventy-five (75) 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; within seventy-five (75) 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.

O. Timber Harvesting - Repealed

P. 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 shoreline buffer extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees in accordance with Section 15(Q).

Town of Chelsea Shoreland Zoning Ordinance

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 shoreline buffer extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond, or within a shoreline buffer extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, 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 shoreline buffer is not created.
- (b) Selective cutting of trees within the shoreline buffer 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, or a river or stream flowing to a great pond, 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.

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points ($36 - 24 = 12$) may be removed from the plot provided that no cleared openings are created.

Town of Chelsea Shoreland Zoning Ordinance

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 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 the vegetation in the shoreline buffer, removal of storm-damaged, hazard or dead trees and any required replanting shall occur in accordance with Section 15(Q).
 - (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 greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond, and seventy-five (75) 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

Town of Chelsea Shoreland Zoning Ordinance

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.

- (4) 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 the lot within the shoreland zone, including the shoreline buffer area. This provision shall not apply to the General Development or Commercial Fisheries/Maritime Activities Districts.
- (5) Legally existing nonconforming cleared openings may be maintained, in accordance with Section 15(R). If these areas, fields or other cleared openings have reverted back to primarily woody vegetation, as a result of not maintaining them in accordance with Section 15(R), then the provisions of Section 15(P) shall apply.

Q. Hazard Trees, Dead Trees and Storm-Damaged Trees

- (1) Hazard trees may be removed without a permit after consultation with the Code Enforcement Officer, provided 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, the opening shall be replaced with native tree species, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches in diameter, measured at four and one half (4.5) feet above ground level. If new growth is not present, then replacement trees shall consist of native species, be at least four (4) feet in height and be no less than two (2) inches DBH. Stumps shall not be removed.
 - (b) Outside the shoreline buffer, if the removal of hazard trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then replacement with native tree species is required, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches DBH. If new growth is not present, then replacement trees shall consist of native species and be no less than two (2) inches DBH.
 - (c) The code enforcement officer may require the applicant to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

Town of Chelsea Shoreland Zoning Ordinance

- (d) The code enforcement officer may require more than a one-for-one replacement for removed hazard trees that exceeded eight (8) inches in diameter at four and one half (4.5) feet above ground level.
- (2) Dead trees may be removed without a permit, provided the following requirements are met:
 - (a) The trees are dead from natural causes. Dead trees are those that contain no foliage during the growing season.
 - (b) The removal of dead trees does not result in the creation of new lawn areas or other permanently cleared areas.
 - (c) Stumps shall not be removed.
- (3) Storm-damaged trees may be removed without a permit after consultation with the Code Enforcement Officer, provided the following requirements are met:
 - (a) Within the shoreline buffer, if the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, the following shall be required:
 - (i) The area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required at a density of one seedling/sapling per every eighty (80) square feet of open canopy.
 - (ii) The removal of storm-damaged trees does not result in the creation of new lawn areas or other permanently cleared areas.
 - (iii) Stumps shall not be removed.
 - (iv) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree.
 - (b) Outside the shoreline buffer, if the removal of storm-damaged trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then the area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required on a one-for-one basis.

R. Exemptions to Section 15(P)

The following activities are exempt from the standards for clearing or removal of vegetation set forth in Section 15(P), provided that all other applicable requirements of

Town of Chelsea Shoreland Zoning Ordinance

this Ordinance are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The clearing or 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 standards of Section 15(P), such as but not limited to cleared openings in the canopy or fields. If any of these areas revert back to primarily woody vegetation, due to a lack of removal of vegetation every two (2) years, the requirements of Section 15(P) shall apply.
- (2) The clearing or 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 clearing or removal of vegetation from the location of public swimming areas associated with allowed public recreational facilities.
- (4) The clearing or removal of vegetation associated with allowed agricultural uses, provided that all requirements of Section 15(N) are complied with, and that best management practices are utilized.
- (5) The clearing or removal of vegetation associated with brownfields or voluntary response action program projects pursuant to 38 M.R.S.A section 343-E, provided that the following provisions are met:
 - (a) The clearing or removal of vegetation is within the shoreland zone of a coastal wetland or a river that does not flow to a great pond that is designated as a General Development Commercial Fisheries / Maritime Activities District; and
 - (b) The clearing or removal of vegetation is necessary for remediation activities to clean up contamination.
- (6) The clearing or removal of non-native invasive vegetation, provided that the following requirements are met:
 - (a) If clearing or removal of vegetation occurs via wheeled or tracked motorized equipment, then the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that the wheeled or tracked motorized equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) The clearing or removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If the clearing or removal of non-native invasive vegetation results in a standard of Section 15(P) being exceeded, then the area shall be revegetated in accordance with Section 15(S) to achieve compliance with the applicable standard(s) of Section 15(P).

Town of Chelsea Shoreland Zoning Ordinance

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program.
http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

- (7) The clearing or 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.

S. Revegetation Requirements

When revegetation is required to address the removal of non-native invasive species of vegetation, to address removal of vegetation in conjunction with shoreline stabilization, in response to violations of the standards set forth in Section 15(P), or as a mechanism to allow for development that may otherwise not be permissible due to the standards of Section 15(P), then revegetation shall comply with the following requirements:

- (1) The applicant 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 must occur at a density comparable to the pre-existing vegetation. If this is not feasible due to shoreline stabilization, then 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 consist of saplings at a minimum;
 - (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 shoreline stabilization, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed,

Town of Chelsea Shoreland Zoning Ordinance

then trees or saplings 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/saplings is required for a minimum of five (5) years.
- (5) Revegetation activities must meet the following requirements for all woody vegetation and for 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 in Section 15(P) for a 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, the area must be supplemented with leaf mulch and/or bark mulch at a minimum of four (4) inches deep 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 Ordinance for a minimum of five (5) years.

T. 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

Town of Chelsea Shoreland Zoning Ordinance

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 riprap.
- (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. Drainage ways 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.
- (6) When an excavation contractor will perform these activities, compliance with the following shall be required:
- (a) A person certified in erosion control practices by the Maine Department of Environmental Protection shall be responsible for management of erosion and sedimentation control practices at the site. This person shall be present at the site each day these activities occur for a duration that is sufficient to ensure that

Town of Chelsea Shoreland Zoning Ordinance

proper erosion and sedimentation control practices are followed. This is required until installation of erosion and sedimentation control measures that will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion.

- (b) Include on the required plan or permit application, the name and certification number of the person who will oversee activities causing or resulting in soil disturbance.

U. 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.

V. 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.

W. 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.

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

16. Administration

A. Administering Bodies and Agents

Town of Chelsea Shoreland Zoning Ordinance

- (1) **Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (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 75 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 individual 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.

Town of Chelsea Shoreland Zoning Ordinance

- (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.

Town of Chelsea Shoreland Zoning Ordinance

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 floodplain 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 floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain 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 floodplain.
- (4) The total footprint, as defined, 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 75 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 floodplain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit.

Town of Chelsea Shoreland Zoning Ordinance

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 non-vegetated surfaces, 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 nonconformity and from which relief is sought; and

Town of Chelsea Shoreland Zoning Ordinance

- (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, in accordance with 30-A M.R.S.A section 4353-A, the Code Enforcement Officer may approve a permit to the owner of a residential dwelling unit for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses that dwelling. The permit is deemed to include the variance, which shall be solely for installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Code Enforcement Officer may impose conditions on the permit, including limiting the permit 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 ramps and associated railing, and wall or roof systems necessary for the safety or effectiveness of the structure. Such permitting 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,

Town of Chelsea Shoreland Zoning Ordinance

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 is 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

Town of Chelsea Shoreland Zoning Ordinance

- (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

Town of Chelsea Shoreland Zoning Ordinance

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 ensure 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.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

17. Definitions

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

Town of Chelsea Shoreland Zoning Ordinance

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 for sale or lease, 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 timber harvesting.

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.

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.

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

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.

Town of Chelsea Shoreland Zoning Ordinance

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.

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.

Excavation contractor - an individual or firm that either is engaged in a business that causes the disturbance of one or more cubic yards of soil, or is in a business in which the disturbance of one or more cubic yards of soil results from an activity that the individual or firm is retained to perform. Disturbance includes: grading, filling, and removal. A person or firm engaged in agriculture or timber harvesting activities is not considered an excavation contractor as long as best management practices for erosion and sedimentation control are used. Municipal, state and federal employees engaged in projects associated with that employment are not considered excavation contractors.

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 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.

Town of Chelsea Shoreland Zoning Ordinance

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 functional 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,

Town of Chelsea Shoreland Zoning Ordinance

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 non-vegetated surfaces, 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.

Town of Chelsea Shoreland Zoning Ordinance

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.

Nonconforming condition – nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Nonconforming 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.

Nonconforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, non-vegetated surfaces or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Town of Chelsea Shoreland Zoning Ordinance

Nonconforming 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.

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 or located below 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

Town of Chelsea Shoreland Zoning Ordinance

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.

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.

Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

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.

Town of Chelsea Shoreland Zoning Ordinance

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 (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

Significant River Segments - See 38 M.R.S.A. section 437.

Storm-damaged tree – a tree that has been uprooted, blown down, is lying on the ground, or remains standing, and is damaged beyond the point of recovery as a 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.

Town of Chelsea Shoreland Zoning Ordinance

Structure - whether temporary or permanent: anything located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind; anything built, constructed or erected on or in the ground. The term structure includes decks, patios, and satellite dishes. Structure does not include fences; poles; wiring, guy wires, guy anchors and other aerial equipment normally associated with service drops; 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; and 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.

Tidal waters – all waters affected by tidal action during the highest annual tide.

Tree – a woody perennial plant that has a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, that has a more or less definite crown and that reaches 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.

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

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.

Town of Chelsea Shoreland Zoning Ordinance

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.

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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.

Wetland - a freshwater wetland or coastal wetland.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

TOWN OF CHELSEA
ORDINANCE
REGULATING THE STORAGE AND DISPOSAL
OF PUTRESCIBLE SOLID WASTE AND JUNK

A. Purpose.

1) This ordinance is created in order to protect the health, welfare, safety and property values of the citizens of Chelsea:

B. Definitions

1) "Putrescible Solid Waste" shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, refuse, but does not include hazardous waste, biomedical waste, septic tank sludge or agricultural wastes. The fact that putrescible solid waste, or constituent of the said waste, may have value, be beneficially used, have other uses, or be sold or exchanged, does not exclude it from this definition.

2) "Junk," shall mean discarded, worn out, unusable or damaged household appliances, furniture, plumbing and heating supplies, discarded scrap and junked lumber and wood products; old or scrap metal of any kind, paper products, bedding, glass, plastic, rags, rope, batteries, and other scrapped or junked manufactured items or materials excluding putrescible solid waste. The fact that junk may have value, be beneficially used, have other uses, or be sold or exchanged, does not exclude it from this definition.

C. Prohibition.

1) Storage. It shall be unlawful to store any putrescible solid waste or junk outside of a closed structure within three-hundred (300) feet of any dwelling, retail or service establishment, or public road within the Town, unless such putrescible solid waste or junk is stored in closed rigid containers that provide protection against animals, insects, wind and precipitation, except that:

(a) Putrescible solid waste may be stored in sealed plastic bags outside a closed structure or container for a period not to exceed five (7) days, provided that such garbage will be removed from the premises within said period.

(b) Any excessively sized item of junk (not putrescible solid waste) that does not fit within a standard container may be stored outside a closed structure or container for a period not to exceed thirty (30) days. At the end of thirty (30) day, the junk shall be lawfully removed and recycled or disposed.

(c) Junk stored within a licensed junkyard or salvage facility may be stored within three-hundred (300) feet of any structure at the salvage yard or recycling facility used solely for the purpose of storing, processing, salvaging, or selling such junk, to the extent permitted by law.

(d) Junk, that is to be salvaged or repaired, may be stored for a period not to exceed sixty (60) days within three-hundred (300) feet of a repair establishment. At the end of the sixty (60) day period, the junk shall be lawfully removed and recycled or disposed.

D. Enforcement: Remedies

- 1) Enforcement. The Code Enforcement Officer shall enforce the provisions of this Ordinance as provided in 30-A M.R.S.A. § 4452.
- 2) Penalties and Other Remedies. Any person, including, but not limited to, a landowner, the landowner's agent, or a contractor who violates the provisions of this ordinance is liable for the civil penalties and remedies set forth in 30-A M.R.S.A. § 4452 as amended. The minimum penalty for a specific violation is One-Hundred Dollars (\$100) and the maximum penalty is Twenty-Five-Hundred Dollars (\$2,500). A specific violation occurs on each day a violation continues to exist after written notice of violation has been sent to the land owner. Civil penalties may be assessed on a per day basis.

Approved as amended by a vote at the Town Meeting on June 15, 2017

This is a true and attested copy of
the Town of Chelsea Ordinance Regulating
the Storage and Disposal of Putrescible Solid
Waste and Junk.

Theresa P. McCarthy
Town Clerk

Street Excavation Ordinance

I. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to regulate excavation on the public streets or paved public ways of the Town of Chelsea in order to assure proper restoration of Town roads to their original condition. The Ordinance is adopted pursuant to the home rule authority of the Town, including 30-A M.R.S.A. §2101 et seq.

II. DEFINITIONS

Street and/or paved public way means any street, road or drive either owned by the Town, maintained by the Town or a public right-of-way assigned to the Town.

III. PERMIT REQUIRED

A permit shall be required prior to the opening or excavation of any street or way, as described in section II, within the limits of the Town of Chelsea. Said permit shall be issued within five business days and enforced by the Road Commissioner of the Town or its designated agent on a form provided. The cost of the permit shall be determined annually each year by the Board of Selectmen. A separate permit is required for each project. The permittee shall certify that notice to Public Utilities has been given pursuant to 23 M.R.S.A. § 3360.

IV. NOTICE TO OWNERS TO CONNECT

Whenever the paving or repairing of any street or public highway shall have been ordered by the Town the Road Commissioner of the Town or its designated agent, the permit holder shall duly serve upon owners of property abutting on such street or highway and upon all corporations, persons, firms and water districts occupying such street or highway a notice directing such owners, corporations, persons, firms and water districts to make such sewer, water and conduit connections or other work as may be designated, within 60 days from date of such notice. At the expiration of the time fixed and after such street has been paved or repaired, no permit shall be granted to open such street for a period of 5 years, except in the event of an emergency as determined by the Town Manager.

IV. RESPONSIBILITIES OF PARTIES PERFORMING THE WORK

The party performing the street opening work by virtue of having acquired a permit, is required to perform the work in accordance with the following:

- (a) The street and/or paved public way surface shall be cut in a straight line prior to excavation. The cut portion of the surface of the street and/or paved public way shall be cut back a minimum of six (6) inches on each side beyond the sides of the actual opening necessary to perform the work.
- (b) All open trenches shall be barricaded with adequate warning lights lighted prior to sunset and kept lighted during all hours of darkness.
- (c) The street and/or paved public way shall be back filled with gravel per state specifications with compaction to take place for every eight (8) inch layer and all gravel shall be firmly compacted.
- (d) The street and/or public way shall be restored to the original grade and surface. Paved surfaces shall be restored with a minimum of two and one half (2 1/2) inches of black top compatible to the original surface.

(e) All drainage ditches and culverts shall be restored as closely as possible to their original condition.

(f) All material, signs, barricades and machinery shall be completely removed when the work is completed.

V. CONTINUING RESPONSIBILITY

The party performing the street opening work shall continue to be responsible for the condition of the opening and return to the site to make such repairs as are necessary in order to maintain the resurfaced excavation in a condition compatible with the original surface, for a period of 180 one hundred and eighty (180) days; said time period beginning with the time of completion of work at the site.

VI. LIABILITY

The party performing the street opening work shall be liable to the Town of Chelsea for any work the Town might be required to perform in those instances where the party fails to complete work or to correct faulty work, after being given a reasonable opportunity to do so. This liability shall be to the extent of Town funds expended to complete or repair the work and said amount shall be due upon presentation of a statement to the party liable.

VII. VIOLATIONS

Any person performing work under the terms of a permit, who violates the terms of said permit, shall be subject to damages the Town incurs in restoring the site to a condition compatible with the original surface. The amount of damages shall be in addition to any amounts due and owed the Town under Section VI above. In addition, the Road Commissioner or his designee shall have the authority to terminate all work until such party is in full compliance with the terms of the permit and all charges are paid in full.

VIII. APPEALS

An appeal may be taken from any decision of the Road Commissioner to the Board of Selectmen. The Board of Selectmen shall affirm, modify or set aside the decision appealed from according to the terms of this Ordinance. The failure of the Board of Selectmen to issue a written notice of its decision, directed to the appellant, within thirty (30) days from the date of filing of the appeal shall constitute a denial of the appeal. An appeal to the Superior Court may be filed within thirty (30) days after the decision of the Board of Selectmen.

IX. VALIDITY

The validity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

X. AMENDMENTS

This Ordinance may be amended by a majority vote at a duly noticed town meeting.

XI. EFFECTIVE DATE

This Ordinance shall become effective on the date of adoption.

TOWN OF CHELSEA

TAX CLUB ORDINANCE

Section 1. Purpose

This ordinance is enacted for the purpose of allowing taxpayers to join a tax club program and pay taxes interest free on a monthly basis.

Section 2. Definitions

For the purposes of this ordinance, the terms used herein shall be defined as follows:

2.1 -Taxpayer shall mean any individual and business (commercial/industrial) that has a tax obligation, real estate and/or personal, with the Town.

2.2 -Real Estate as defined by M.R.S.A. Title 36 § 551. Personal Property as defined by M.R.S.A. Title 36 § 601.

2.3 -Coupon booklet shall mean the receipt book, as designed by the Tax Collector, used for the tax club program. Tax club program is a convenient program which enables any taxpayer to make monthly payments on their tax obligation.

2.4 -Town means the Town of Chelsea.

Section 3. Authority

The Board of Selectmen shall authorize the Tax Collector on an annual basis, on such terms and conditions as outlined in this ordinance, to allow taxpayers to join a tax club program. To qualify for monthly payment of tax assessments, the taxpayer must sign a register indicating the taxpayer's election to comply with this ordinance. The register shall be maintained by the Tax Collector at the Town Office.

Section 4. Procedures

A taxpayer, who elects to join the tax club program, shall adhere to the following regulations:

- A. All accounts in the taxpayer's name, or any accounts the taxpayer may have any financial interest in, must be currently paid in full before a coupon booklet may be issued for the taxpayer's real estate and/or personal property tax obligation.
- B. If the taxpayer owes both real estate and personal property taxes, and elects to join the tax club program for just one of the accounts, the taxpayer must pay the other account in full for the following tax year.
- C. Tax clubs must be started no earlier than May 1 of each year for the next fiscal year, with the payment due dates set annually by the Town Meeting. NO CLUBS will be accepted after July 1.
- D. There will be a total of 12 payments. Failure to pay any amount due by its due date will result in removal from the tax club and penalties will be charged as stated in this ordinance.

- E. In order to avoid the penalty, the first half of the current taxes must be paid in full by the October payment, and the second half must be paid in full by the April payment. Interest will be charged, as set by the Town Meeting yearly for all taxes, for any unpaid balance or for any removals from this program.
- F. Monthly payments will be calculated using 105% of the prior year's taxes and adjusted on the first payment after the commitment date to reflect the current tax bill.
- G. Any amount once paid cannot be withdrawn, refunded or transferred to another account.
- H. A taxpayer who has agreed to these terms shall be issued a coupon booklet. This booklet will need to be brought in when the taxpayer makes a payment; or, if the taxpayer pays by mail, the taxpayer will need to detach the coupon and mail it with the payment.
- I. If the taxpayer owes personal property and real estate taxes, the taxpayer may combine the amount due for each and make one payment. However, the personal property tax account will be credited first.

Section 5. Administration and Enforcement

The Tax Collector is hereby authorized to administer and enforce this ordinance.

Section 6. Penalty

Any taxpayer who violates any provision of this ordinance shall be subject to the provisions and penalties of Section 4-D. and Section 4-E.

Section 7. Severability

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

APPROVED AT THE JUNE 13, 2013 TOWN MEETING

Town of Chelsea

Monthly Tax Club Payment Plan Agreement 2013-2014

PURPOSE OF PLAN: The Tax Payment Plan benefits the tax payer by relieving the purpose of dual lump sum payments and enabling one to budget those obligations out over a 12 month period as well as avoiding interest charges. This in turn benefits the Town by creating a more predictable cash flow.

* * * * *

* *

I, (we), the undersigned, do hereby agree to pay the estimated 2014 tax bill in twelve (12) payments for the months July 2013 to June 2014, inclusive. All payments are rounded off to the nearest dollar for ease in bookkeeping until the final payment. **Payments shall be made by the 5th of the month.**

You will receive a bill in June for the first two months only (July and August) of estimated installments owed. When the annual billing is committed, you will then receive your official payment book with your calculated monthly payments.

If two (2) consecutive payments are missed, this agreement shall become null and void and interest on the balance will begin to accrue at the normal Town interest rate, beginning from the date of the last payment.

It is not the responsibility of the Town to notify a Payment Plan member of delinquent payments. **Payment Plan participants will receive the yearly reminder notices prior to April 30th, 2013, mailed to all tax payers with a balance.**

Questions contact Lisa Gilliam @ 582-4802 or townclerk@chelseamaine.org

Name of Property Owner(s)

1) _____

2) _____

Mailing Address:

Physical Property Location:

Map/Lot #: _____ Phone: _____

Email: _____

Signature (s)

Owner: 1) _____ Date: _____

Owner: 2) _____ Date: _____

OFFICE USE ONLY

Account Number	
Estimated 2013 Taxes	
July & August 2013 Payment	
Date 1 st Payment Due	
Annual Taxes	
# of Payments	
Monthly Payment Amount	

Approved By: _____

Date: _____

Traffic Control Ordinance

In accordance with Title 30-A M.R.S. § 3009, the Municipal Officers of the Town of Chelsea hereby enact an ordinance which will aid in the control of the movement and stopping of vehicular traffic.

- A. Emergency vehicles are not required to adhere to the rules and regulations set forth herewith when in direct line of duty, as long as they are using visual and auditory signals per 29-A M.R.S. § 2054.
- B. This ordinance will be enforced by any officer with police powers.
- C. All signs posted must be in compliance with 23 M.R.S. § 1913-A and 29-A M.R.S. § 2051

Section I: Traffic Infractions.

Any violation of the provisions of this Ordinance shall be deemed a traffic infraction within the meaning of 29-A M.R.S. § 101(85). Any person who violates a provision of this Ordinance shall be subject to the civil penalties provided under 29-A M.R.S. § 103 (not less than \$25 nor more than \$500) and § 2602, or otherwise provided by statute or Ordinance.

Section II: Definitions.

Unless otherwise provided in this Ordinance, terms used shall have the same meanings and definitions used under Title 29-A M.R.S.

Section III: Winter Parking.

No person shall park or have standing any attended or unattended vehicle on any way or highway right-of-way which may interfere with snow removal or the normal movement of traffic. Any vehicle parked, disabled, or abandoned on any public way that interferes with or hinders the removal of snow or sanding may be removed and stored, at the owner's expense, at the order of the Road Commissioner or designee without notice to the owner beginning November 1st and ending April 1st between the hours of 9PM and 7AM. The Town and its agents will in no way be responsible for any damage or loss to a vehicle stored in compliance with this Section.

Section IV: Snow Removal

No person shall place or deposit snow or ice on or upon the traveled way of any public way or sidewalk. Any person who violates this provision after receiving a warning from the Road Commissioner or designee shall be subject to a civil penalty of not less than \$25 or more than \$100 for each offense.

Section V: No Passing Zone.

- A. No passing zone extending approximately 4000 feet from the Hallowell Road Fire Station in an Easterly direction to a point beyond the intersection of the Hallowell Road and the Townhouse Road and so designated and marked by “No Passing Zone” signage is hereby established effective upon the enactment of this ordinance.

Section VI: No Parking Zone

- A. No person shall park or leave unattended any vehicle within a 15-foot radius of a fire hydrant so marked by the Town of Chelsea Volunteer Fire Department.
- B. It shall be unlawful for any person to allow a vehicle to park in Butternut Park for the purpose of camping or overnight parking between Sunset and Sunrise.
- C. No person shall park or leave standing any vehicle whether attended or unattended on the paved, traveled portion nor within 10 feet from the nearer outside line of the traveled way where posted on:

(The Municipal Officers have not posted any sections of roadway no parking)

Section VII: Town way Load Weight Limits

- A. The Municipal Officers may review and after public hearing enact town way load limits as deemed prudent and necessary.

(A current list of the town ways and posted weight is attached to this ordinance as Appendix A. A copy can be obtained at the Town Office.)

- B. It shall be unlawful for any vehicle to exceed the posted weight limit on town ways without first obtaining a permit from the Municipal Officers or the Road Commissioner.

(1) Exceptions:

This section of the Traffic Control Ordinance shall not prohibit the operation of:

(a) Trucks which exceed the posted weight limit on a town way as designated by the Municipal Officers in Appendix A, provided that the truck is engaged in a pick-up or delivery within Chelsea and the town way on which the truck is being operated to reach its destination or return to its point of origin is the shortest direct route between the pick-up or delivery point.

(b) Emergency vehicles or public utilities vehicles engaged in repairs

- (c) Trucks while engaged in the delivery of fuel oil, firewood, propane or any heating source
- (d) Trucks while engaged in the collection of refuse and maintenance of septic systems
- (d) School buses while engaged in the pick-up and drop off of students
- (e) Trucks detoured by the Town of Chelsea or State of Maine
- (f) Wide loads or house trailers with escorts and permission of the Road Commissioner

C. Emergency Permits. The Municipal Officers or Road Commissioner may issue emergency permits for use of town ways otherwise prohibited by this ordinance when the Municipal Officers or Road Commissioner finds that it is necessary for public safety reasons.

Section VIII: Effective Date

- A. This ordinance and appendices shall become effective upon adoption by the Municipal Officers.

Adopted by the Municipal Officers this 23rd day of March, 2016.

Richard Danforth

Michael Pushard

Benjamin Smith

Attested:

Appendix A:

The Municipal Officers hereby establish the weight limit of traffic allowed to cross the following roads and bridges in accordance with Section VI. of the Town of Chelsea Traffic Control Ordinance.

Town Roads:

“No through 3 axle or greater vehicles over 23,000 gross vehicle weight rating (GVWR)”

Hallowell Road – a distance of approximately 4.41 miles between Togus VA Center property line and State Route 9 (River Road) for its entire length. Which shall also include Partridge Place, Tasker Road, Dondero Road, Cony Road, Townhouse Road, Keith Street, Sylvester Avenue, Norway Road, Hallett Street, Sylvan Way, Beech Street,

Hankerson Road – a distance of approximately 1.85 miles between State Route 226 (Togus Road) and the Intersection of Townhouse and Davenport Roads for its entire length. Which shall also include the Collins Road, Birch Street, Aaron Avenue, Hemlock Ridge Road, South Dondero Road, Davenport Road and Townhouse Road.

Windsor Road – a distance of approximately 3.20 miles between State Route 226 (Togus Road) and State Route 17 (Eastern Ave.) for its entire length. Which shall also include the Searle’s Mill Road.

Cheney Road – a distance of approximately 0.90 miles from its southerly entrance from State Route 9 (River Road) to its northerly entrance from State Route 9 (River Road) for its entire length. Which shall also include the Davenport Road.

Cony Road – a distance of approximately .615 miles between the Augusta Town Line to the Hallowell Road for its entire length.

Wellman Road – a distance of approximately 0.80 miles between State Route 226 (Togus Road) and State Route 17 (Eastern Ave.) for its entire length

Beech Street – a distance of 0.76 miles between State Route 9 (River Road) and Norway Road for its entire length.

Collins Road – a distance of 0.95 miles between Birmingham Road and Hankerson Road for its entire length.

Bridge(s):

“Weight Limit: 10 tons”

Nelson Road – at the big culvert located approximately 200 feet northeasterly of the Pittston Town Line.

TOWN OF CHELSEA

WIRELESS TELECOMMUNICATION FACILITIES ORDINANCE

Section 1. Title

This ordinance shall be known and cited as the “Wireless Telecommunications Facilities Ordinance of the Town of Chelsea, Maine” (hereinafter referred to as the “ordinance”).

Section 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 Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4212 *et seq.*

Section 3. Purpose

The purpose of this ordinance is to outline the approval process, and to provide a set of standards for the construction and expansion of wireless telecommunications facilities in order to:

- Implement a municipal policy concerning the provision of wireless communication services, and the siting of their facilities;
- Establish clear guidelines, standards and time frames for the exercise of municipal authority to review and regulate wireless telecommunications facilities;
- Allow competition in telecommunications service;
- Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of the Town of Chelsea;
- Permit and manage reasonable access to the public rights of way of the Town of Chelsea for telecommunications purposes on a competitively neutral basis;
- Ensure that all telecommunications carriers providing facilities or services within the Town of Chelsea comply with the ordinances of the Town of Chelsea;
- Ensure that the Town of Chelsea can continue to fairly and responsibly protect public health, safety and welfare;
- Encourage the co-location of wireless telecommunications facilities in order to reduce the number of future tower structures and their related appurtenances;
- Enable the Town of Chelsea to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development; and,

Section 4. Applicability

This ordinance shall apply to the construction and/or expansion of all wireless telecommunications facilities and their related appurtenances within the Town of Chelsea, except as provided for in Section 4.1, (Exemptions) of this ordinance.

Section 4.1. Exemptions

The following are exempt from the provisions of this ordinance:

A. Emergency Wireless Telecommunications facility – Temporary wireless telecommunications facilities that are utilized for emergency communications purposes by public officials.

B. Temporary Wireless Telecommunications Facility – A temporary wireless telecommunications facility which is in operation for a maximum period of one hundred eighty (180) days, whether the days are consecutive or not, and at a location that has been previously reviewed and approved by the Planning Board.

C. Amateur (ham) Radio Stations – Amateur (ham) radio stations that are licensed by the Federal Communications Commission (FCC).

D. Antennas as Accessory Uses – An antenna that is an accessory use to a residential dwelling unit, such as, but not limited to, a television antenna or a CB radio antenna.

E. Reconstruction - Reconstruction of a wireless telecommunications facility and its related equipment, provided that there is no change in the height or configuration of the tower, the number of co-locators and/or antennas, or any other change to the dimensions of the facility as it existed prior to reconstruction, including any buildings or structures. Reconstruction of the facility must commence within six (6) months of the date the facility was either damaged or destroyed, and all necessary plans and permit applications must be submitted by the applicant and approved by the CEO prior to reconstruction. All work must be completed within twelve (12) calendar months, from the date reconstruction commenced, in order to be deemed exempt from this ordinance.

F. Governmental Wireless Telecommunications Facilities –Governmental wireless telecommunications facilities that are utilized for communication purposes by authorized public officials, or the co-location of non-governmental wireless telecommunications facilities that otherwise satisfy the requirements of this ordinance.

Section 5. Review and Approval Authority.

Section 5.1. Approval Required.

No person or entity shall construct a wireless telecommunications facility without first receiving Planning Board approval, or expand a wireless telecommunications facility without first receiving a permit from the CEO.

A. New Construction.

Planning Board approval shall be required for the construction of any new wireless telecommunications facility, or the expansion of an existing wireless telecommunications facility that increases the height of the facility by more than twenty (20) feet.

B. Expansion of an Existing Facility and Co-location.

A permit from the CEO shall be required for any expansion of an existing wireless telecommunications facility that was previously reviewed and approved by the Planning Board under this ordinance, or by the Board of Appeals prior to the enactment of this Ordinance. An expansion shall be any change that:

1. increases the height of the facility by no more than twenty (20) feet;
 2. proposes an accessory use to an existing wireless telecommunications facility;
- or,
3. proposes co-location on an existing wireless telecommunications facility where the potential co-location of additional antennas has been previously endorsed by the Planning Board.

Should the expansion increase the height in excess of one hundred ninety-five (195) feet, including all appurtenances, a variance shall be required from the Board of Appeals in addition to the CEO's approval.

Upon granting any permit for a wireless telecommunications facility, the CEO shall make written findings of facts stating that the proposed facility complies with all of the applicable Approval Criteria outlined under Section 7.2 of this ordinance.

5.2. Approval Authority.

In accordance with Section 5.1, of this ordinance, the Planning Board shall review all applications for the construction of wireless telecommunications facilities, and any expansion of wireless telecommunications facilities above and beyond the specific expansions listed under Section 5.1 (B)(1-3) of this ordinance. The CEO shall review all applications for a permit to expand a wireless telecommunications facility, as listed under Section 5.1 (B)(1-3) of this ordinance. Upon granting final approval for a new wireless telecommunications facility, the Planning Board shall make written findings of facts on whether the proposed facility complies with this ordinance. In addition, upon approval of an application for a permit to expand an existing facility, the CEO shall also make written findings of facts on whether the proposed expansion of an existing facility complies with this ordinance.

Section 6. Approval Process

Section 6.1 Pre-Application Conference

All applicants seeking approval from the Planning Board for the construction of a wireless telecommunications facility under this ordinance are encouraged to meet with the CEO prior to the submittal of a formal application for the development of the facility. The purpose of this meeting is to provide an opportunity for the applicant, the applicant's representative and the CEO to: meet and discuss the proposal in detail, review and discuss any of the provisions in the ordinance that specifically apply to the proposal, as well as, any proposed modification or waiver requests that may be requested, review and discuss the application forms, and identify what type of site plans and related information must be submitted for the Planning Board's review.

Section 6.2 Application Requirements

A. Application for Planning Board Approval.

All applicants seeking approval of a wireless telecommunications facility under this ordinance shall submit six (6) copies of an application, including site plans and related information, to the CEO at least fourteen (14) days prior to the Planning Board meeting at which the applicant wishes the proposal to be heard. The application shall include the following information:

1. A site plan prepared and certified by a professional engineer indicating the following information:
 - a. the location, type, and height of the proposed facility, including the proposed location of the tower structure, accessory buildings and/or structures, and parking stalls for maintenance vehicles;
 - b. the antenna capacity of the proposed facility;
 - c. the type of existing land uses on-site, if any;
 - d. the name of all abutting property owners and the type of existing land use on each abutting property, including all existing buildings or structures on site;
 - e. the location of the proposed or existing town road, private road, right-of-way, or access drive providing access to the property under consideration;
 - f. the proposed location of utilities to service the site, such as telephone and electrical services, which shall be placed underground;
 - g. all building setbacks from the property lines;

h. the bearings and distances of all property lines of the property to be developed, and the source of this information. The Planning Board shall require a standard boundary survey for the property under consideration, performed by a land surveyor licensed by the State of Maine, when sufficient information is not available to accurately establish on the ground all property boundaries.;

i. a North arrow; the scale of the plan (the plan shall be drawn to an engineer's scale of not over fifty (50) feet to the inch); a title block indicating the name of the proposed project; the name of the owner(s) of the property; the date the plan was drafted; and, the name, registration number, and seal of the professional engineer who prepared the site plan; and,

j. a location map, drawn to a scale of not over four hundred (400) feet to the inch, to show the relation of the proposed site plan to the adjacent properties and to the general surrounding area. The location map shall show all the area within two hundred fifty (250) feet of any property line of the proposed site including all existing buildings, structures, streets, and right-of-ways.

The required site plan shall include the following notes as well:

k. "This wireless telecommunications facility shall meet all of the applicable American National Standards Institute (ANSI) technical and structural codes, as amended."

l. "The entire site shall be developed and/or maintained as depicted on the site plan and in accordance with all accompanying written submittals and in accordance with any conditions attached by the Planning Board. Approval by the Planning Board shall be required for any amendments to or deviations from the approved site plan, including, without limitation: topography; drainage; landscaping; retention of wooded or lawn areas; access; utilities; size, location and surfacing of parking areas; and location and size of buildings and/or structures."

m. "Failure to commence substantial construction of this facility within two (2) years of the date of final Planning Board approval shall render the plan null and void."

n. "Prior to the construction of a driveway serving any use, the owner(s) of the property must secure, in writing, all required permits for a driveway opening (i.e. "curb cut") from either the Road Commissioner and/or the State of Maine Department of Transportation, as necessary, and submit a copy of said permits as part of an application for any future building permit."

2. A USGS 7.5 minute topographic map showing the location of all existing structures and wireless telecommunications facilities that are one hundred fifty (150) feet in height above ground level, or greater, excluding antennas located on roof tops, within a five (5) mile radius of the property under consideration. This requirement may be met by submitting current information from the FCC Tower Registration Database.

3. A scenic assessment consisting of the following:

a. Elevation drawings of the proposed facility, including any buildings or structures, showing the proposed height above ground level;

b. A landscaping and buffering plan indicating the proposed placement of the facility on the site; location of existing buildings or structures, trees and other significant features existing on site; the proposed type (species), size and location of trees, plants and/or shrubs to be installed in order to adequately screen the proposed facility and soften its impact on abutting and/or adjacent properties; the proposed method of security fencing; the proposed color of the structure; and, the proposed type and location of exterior lighting.

c. Photo simulations of the proposed facility taken from various perspectives, such as public right-of-ways, historic sites or buildings, and impacted adjoining properties. Each photo shall be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photo simulations shall indicate the proposed color(s) of the facility and the method of landscaping and buffering.

4. Evidence demonstrating that no existing site, building, or structure can accommodate the applicant's proposed facility. The evidence may consist of any one or more of the following:

a. Evidence that no existing facilities are located within the targeted market coverage area that would meet the applicant's engineering requirements;

b. Evidence that existing facilities do not have sufficient height, or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements;

c. Evidence that existing facilities do not have sufficient structural strength to support the applicant's proposed antenna and related equipment. Specifically:

i. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.

ii. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures with filtering, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.

iii. Existing or approved facilities do not have space on which planned equipment can be placed so that it can function effectively.

d. For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. (NOTE: Costs exceeding the development of a new facility are presumed to be unreasonable.) This evidence shall also be satisfactory for a tower constructed after the passage of this ordinance; and/or,

e. Evidence that the applicant has made diligent, good faith efforts to negotiate collocation on an existing facility, building or structure and has been denied access.

5. Documentation of the applicant's right, title or interest in the property and access to the property on which the facility is to be located, including the name and address of the property owner and the applicant.

6. A copy of the FCC license for the facility, or a signed, notarized statement from the owner and/or operator of the facility attesting that the facility complies with all current FCC regulations.

7. Certification by the applicant that the proposed facility complies with all FCC standards for radio emissions.

8. Certification by a professional engineer, registered in the State of Maine, that the proposed facility will comply with all of the applicable standards of the American National Standards Institute (ANSI), the Electronics Industries Association Standard for Antenna Towers and Antenna Support Structures, and any other applicable technical and structural codes;

9. A written description of how the proposed facility fits into the applicant's telecommunications network. As part of this description, the applicant shall describe anticipated maintenance needs, including frequency of service, personnel needs, equipment needs, and traffic, noise, or safety impacts of such maintenance. In all cases, the equipment at a wireless telecommunications facility shall be automated to the greatest extent possible to reduce traffic, congestion, and noise associated with maintenance and upkeep of the facility.

10. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

11. A signed, notarized statement, to be recorded in the Kennebec County Registry of Deeds and the recording data submitted to the CEO that commits the owner of the facility, and his or her successors in interest, to:

a. Respond in a timely, comprehensive manner to a request for information from a collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

b. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

c. Allowed shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location; and,

d. require no more than a reasonable charge for shared use of the wireless telecommunications facility.

12. A performance guarantee, or similar form of surety, approved by the Town Manager or a designee, to pay for the costs of removing the entire facility, if it is abandoned, and reclaiming the site to a pre-construction condition. The amount of this performance guarantee shall be in an amount equal to one hundred twenty-five percent (125%) of the projected total cost of removing the entire facility, and reclaiming the site to its pre-construction condition. Should the operation of the facility cease in the future, and the facility is dismantled by the owner and/or operator, the performance guarantee shall be returned to the owner and/or operator, including any interest that may have accrued during the time it was held by the town.

B. Application for Code Enforcement Officer (CEO) Approval.

All applicants seeking to expand a wireless telecommunications facility under this ordinance shall submit three (3) copies of an application, including site plans and related information, to the CEO. The application shall include the following information:

1. Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including the name, address and telephone number of the property owner and the applicant.

2. A copy of the FCC license for the facility, or a signed, notarized statement from the owner and/or operator of the facility attesting that the facility complies with all current FCC regulations.

3. A location map, copy of the approved site plan for the existing facility, and elevation drawings of the proposed facility and any other proposed buildings and/or structures, showing the proposed color of the facility and identifying structural materials to be used.

Section 6.3. Waiver of Application Requirements

A. The Planning Board may modify or waive any of the application requirements listed under Section 6.2, Application Requirements, subsection A, Application for Planning Board Approval, of this ordinance upon receipt of a written request for specific modifications and/or waivers from the applicant. A modification or waiver of any application requirement may be granted only when the Planning Board makes a finding that, due to special circumstances associated with the proposal under consideration, the

submission of specific information is not applicable to the proposal and that granting the requested modification(s) or waiver(s) would not cause an undue, adverse impact on abutting or adjacent properties, and the health, safety, and general welfare of the citizens of the Town of Chelsea.

B. The CEO may modify or waive any of the application requirements listed under Section 6.2, Application Requirements, subsection B, Application for CEO Approval, of this ordinance upon receipt of a written request for specific modifications and/or waivers from the applicant. The written waiver request shall be submitted as part of the formal application to the CEO. A modification or waiver of any application requirement may be granted only when the CEO makes a finding that, due to special circumstances associated with the proposal under consideration, the submission of specific information is not applicable to the proposal and that granting the requested modification(s) or waiver(s) would not cause an undue impact on abutting or adjacent properties, and the health, safety, and general welfare of the citizens of the Town of Chelsea. Said finding shall be made in writing and forwarded to the applicant.

Section 6.4. Application and Review Fees

A. Planning Board Application Review Fee

Any formal application submitted for Planning Board review and approval of a wireless telecommunications facility shall include a non-refundable application fee as established by the Chelsea Town Selectmen and amended from time to time. No formal application shall be considered complete or forwarded to the Planning Board for review until the required application fee is submitted.

B. CEO Construction/Expansion Permit Application Fee

Any building permit application submitted for the CEO's review and approval of the construction of a new wireless telecommunications facility, or an expansion to an existing wireless telecommunications facility, as defined in this ordinance, shall include a non-refundable application fee as established by the Chelsea Town Selectmen and amended from time to time. No building permit application shall be determined complete or formally acted upon by the CEO until the required application fee is submitted.

C. Independent Analysis and Review Fee

In the event that the Planning Board or the CEO finds that an independent analysis is required due to the fact that the review of certain information associated with the development of a proposed wireless telecommunications facility is beyond the expertise of town staff, and that the anticipated costs of the independent analysis are reasonable based upon the required time involved and the complexity of the analysis, it shall hire an independent consultant to conduct an independent analysis of that information deemed to be beyond the expertise of town staff with the cost of the analysis to be paid entirely by the applicant.

The Planning Board and the applicant, or the applicant's representative, must mutually agree to the hiring of an independent consultant prior to having any plans and related information forwarded to the consultant. The developer shall pay a fee equal to the

estimated cost of the analysis as provided by the consultant hired by the Town. The fee shall be payable by check to the Town of Chelsea stating the purpose of the fee before the analysis is conducted. Upon completion of the independent analysis any remaining portion of the estimated fee shall be returned to the applicant. However, should the actual cost exceed the estimated cost, the applicant shall pay the difference prior to the Planning Board granting final approval to the project.

In the event that the Planning Board and the applicant, or the applicant's representative do not come to a mutual agreement regarding the requested independent analysis and/or the estimated fee, the Planning Board shall deem the project's application incomplete and table the proposal. The application shall lose any standing it may have after six (6) months from the date that the Planning Board made a motion to table the application.

Section 6.5. Planning Board Review

Upon receipt of an application for the development of a wireless telecommunications facility, the CEO shall notify all property owners within five hundred (500) feet of the property under consideration, as determined from the Assessor's records as of April 1st, by mail, of the pending application. This notice shall include a brief description of the proposed activity, the name of the applicant, and the location of the property under consideration for development.

Upon receipt of an application for the development of a wireless telecommunications facility, the Planning Board shall hold a Pre-Application Conference to review the proposed site plan and the project's application for completeness. The Planning Board shall make a finding at a Determination of Completeness Hearing that the application is, or is not complete, within thirty (30) days of receiving the application and notify the applicant, in writing, of the Board's decision. Should the Planning Board find that the application is complete, the Board shall schedule the proposal for a Public Hearing within thirty (30) days of the date of its decision. The Planning Board may hold a site walk to review the specific conditions of the property under consideration, and said site walk shall be held prior to the Public Hearing. Notice of the site walk shall be published in a local newspaper of general circulation in the community prior to the scheduled site walk.

Should the Planning Board find that the application is not complete, the Board shall specify, in writing, what additional materials or information would be required to complete the application.

The Planning Board shall also review the applicant's requests for modifications and/or waivers to the application requirements listed under Section 6.2 of this ordinance and take action on the requests within thirty (30) days of receiving them. The Planning Board shall act on the applicant's requests for modifications and/or waivers to the application requirements prior to determining the application complete.

Section 6.6. Planning Board Approval

Within ninety (90) days of the date that the Planning Board made a finding that a complete application has been submitted, the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based.

Section 6.7 Code Enforcement Officer (CEO) Review.

Upon receipt of an application for a permit to expand a previously approved wireless telecommunication facility, the CEO shall review the application and determine if the application meets the submission requirements within fourteen (14) days of receiving the application. The CEO shall also review any requests for modifications or waivers from the submission requirements and shall act on these requests prior to determining the application complete.

Upon determining the application complete, the CEO shall notify all property owners within five hundred (500) feet of the property under consideration, as determined from the Assessor's records as of April 1st, by mail, of the pending application. This notice shall include a brief description of the proposed activity, the name of the applicant, and the location of the property under consideration for development.

Should the CEO find that the application is not complete, the CEO shall notify the applicant, in writing, and specify the additional materials or information necessary to make the application complete.

The CEO shall not issue any required permits for an application on a proposal to collocate on an existing tower facility until fifteen (15) days after the date that the required notice was sent to all abutting property owners.

Section 6.8 Code Enforcement Officer (CEO) Approval.

Within thirty (30) days of receiving a complete application for the expansion of a wireless telecommunications facility, the CEO shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. The CEO shall approve the application if the CEO finds that the application complies with the provisions listed under Section 7.2 of this ordinance.

Section 7. Planning Board Approval Standards

The following criteria are to be used by the Planning Board in judging applications for the development of all wireless telecommunications facilities and shall serve as the minimum requirements for approval of the application. Any application submitted for approval by the Planning Board under Section 5.1 (A) of this ordinance shall be approved unless the Planning Board determines that the applicant has failed to 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 sufficient to warrant a finding that all applicable criteria have been met.

A. Priority of Locations.

Siting of new wireless telecommunications facilities shall be giving the greatest consideration in areas other than neighborhoods as identified in the 2003 Town of Chelsea comprehensive plan and any added subdivisions since 2003 and may be located in any areas after an applicant has exhausted all possible locations within non-neighborhood areas. The applicant shall demonstrate that "goodfaith" efforts were made to secure a location within a non-residential area as part of the application to locate a wireless telecommunications facility within a residential area.

B. Siting on Municipal Property.

Whenever possible, applicants shall give consideration to locating wireless telecommunication facilities on property owned by the Town of Chelsea. In all cases, the proposed facility should not interfere with the intended or existing use of the property. The Planning Board shall require the applicant to have adequate liability insurance, and a long-term lease agreement with the municipality. The lease agreement must include the specific purpose of the lease, the duration, termination and renewal terms, and reasonable compensation for the use of the property. In addition, the Planning Board shall ensure that adequate provisions are in place to safeguard the public rights and interests in the property.

C. Design for Co-Location.

The proposed wireless telecommunications facility shall be designed and constructed to accommodate expansion for future co-location of at least three (3) additional wireless telecommunications facilities and/or providers. In all cases, the Planning Board shall work closely with applicants in determining what would be the most effective and appropriate co-location design of the facility in order to meet this standard, and the Board shall also give strong consideration to the future co-location of municipal communications equipment, such as, but not limited to: antennas, receivers, transmitters, and related equipment.

D. Maximum Height Restrictions.

The proposed wireless telecommunications facility shall have a maximum height of one hundred ninety-five (195) feet, including the height of any antennas to be placed on the tower structure.

E. Minimum Lot Size.

The proposed wireless telecommunications facility shall be constructed on a lot sufficient in size to meet the required setbacks for the proposed tower structure, unless the Planning Board grants a request for a reduction to the required setback, as allowed under Section 7 (E) of this ordinance. If such a reduction in setback is granted, the Planning Board shall determine the minimum lot size for the proposed facility as part of granting the setback reduction.

F. Required Setbacks.

The proposed wireless telecommunications tower structure shall have a setback equal to one hundred and ten percent (110%) of the height of the tower structure, measured from the nearest edge of the base of the tower structure to the property line. All principal and accessory structures shall have a setback equal to fifty percent (50%) of the height of the tower structure, and shall be placed as close to the tower structure as possible. These setback requirements shall not apply to Wireless Telecommunications Facilities that were in existence prior to the effective date of this ordinance, or to co-location of antennas and the placement of accessory structures at Wireless Telecommunications Facilities that were in existence prior to the effective date of this ordinance.

As part of the Planning Board's review, the applicant may request a reduction to the required setback upon demonstration to the Planning Board that the facility (i.e. tower structure) is designed to collapse in a manner that will not harm any abutting property, including any buildings or structures located thereon.

G. Landscaping and Buffering.

The proposed wireless telecommunications facility and its related equipment shall be screened from view by abutting properties to the maximum extent possible. A staggered row of evergreen plantings, six (6) feet in height (minimum) at the time of planting and four to six (4-6) feet on center, shall be installed outside the fenced area and in such locations where they will provide the greatest amount of screening.

Additional landscaping materials are strongly encouraged and should be installed in specific locations where they will soften the appearance of the facility.

H. Security Fencing

The proposed wireless telecommunications facility shall have security fencing installed to discourage trespass on or within the facility, and to discourage climbing on the tower or any buildings and/or structures by trespassers. Security fencing shall be a minimum of eight (8) feet in height with the option of an outward projecting attachment at the top of the fence.

I. Lighting.

a. Tower Lighting

The proposed wireless telecommunications facility shall be illuminated, as required, in order to comply with Federal Aviation Administration (FAA) and/or other applicable state and federal requirements. However, strobe lights shall only be utilized to illuminate the tower structure during daylight hours, and glowing red lights shall be utilized to illuminate the tower structure during evening and night hours.

b. Security Lighting

Security lighting may be implemented as long as it is adequately shielded and does not impact abutting properties. All exterior lighting shall be located in such a manner that light is retained within the boundaries of the site, and should be down directional to the maximum extent possible to reduce "sky glow".

J. Color and Materials.

The proposed wireless telecommunications facility shall be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent possible. Unless contrary to the built environment, muted colors, earth tones and subdued hues shall be used. Except where dictated by federal or state requirements, the Planning Board may require a proposed tower to be "camouflaged" or designed to blend with its surroundings. This may include, but is not limited to, having a galvanized finish painted "flat" blue-grey or in a sky tone above the tree line and earth-tone below the tree line.

K. Structural Standards.

The proposed wireless telecommunications facility shall comply with the most current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures".

L. Noise.

The volume of sound, measured by a sound level meter and frequency weighting network (manufactured according to standards prescribed by the American Standards Association), inherently and recurrently generated by the facility, shall not exceed sixty (60) decibels at lot boundaries.

During construction, repair, or replacement of the facility, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between the hours of 7 a.m. and 7 p.m. is exempt from this standard.

M. Historical and Archaeological Properties.

The proposed wireless telecommunications facility shall not have an unreasonable adverse impact upon a historic site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

7.1. Standard Conditions of Approval.

In addition to the required notes to be placed on a wireless telecommunications facility site plan, as outlined under Section 6.2 (1)(k,l,m,n) of this ordinance, the Planning Board shall also require the following "standard condition notes" to be clearly noted on the final approved site plan. The required notes are as follows:

1. The owner of the wireless telecommunications facility and his or her assigns agree to:

a. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not to exceed the actual cost of preparing a response;

b. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

c. allow shared use of the wireless telecommunications facility if an applicant agrees, in writing, to pay reasonable charges for co-location; and,

d. require no more than a reasonable charge for shared use of the wireless telecommunications facility.

2. Upon request by the Town of Chelsea, the applicant shall certify compliance with all applicable Federal Communications Commission (FCC) radio frequency emissions regulations.

Section 7.2. CEO/Expansion Approval Criteria.

The following criteria are to be used by the CEO in judging applications for the expansion of a wireless telecommunications facility and shall serve as the minimum requirements for approval of the application. Any application submitted for approval by the CEO under Section 5.1 (B) of this ordinance shall be approved unless the CEO determines that the applicant has failed to 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 sufficient to warrant a finding that all applicable criteria have been met.

A. The proposed facility is an expansion, accessory use, or co-location to a tower structure that was previously reviewed and approved by the Planning Board or The Board of Appeals, and that the tower structure is in existence at the time the application is submitted.

B. The applicant has demonstrated to the CEO's satisfaction that the applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.

C. The proposed facility does not increase the height of the existing tower structure by more than twenty (20) feet.

D. The proposed facility will be constructed with materials and/or colors that match or blend with the surrounding natural or built environment, to the maximum extent possible.

Section 8. Structural Integrity and Routine Inspections

Upon completion of any inspection of a wireless telecommunications facility, specifically the tower structure and any antennas, dishes, etc. attached thereto, the owner and/or operator shall forward a copy of the inspection report and its findings to the CEO for his review and consideration. Should any portion of the inspection reveal an unsafe condition, the Code Enforcement Office shall require the owner and/or operator to correct the unsafe condition within forty-five (45) days of receiving the report. Failure to provide the inspection reports shall be deemed to be *prima facie* evidence of abandonment.

Section 9. Amendment to an Approved Application

Any amendments to an application for a wireless telecommunications facility, that has been previously reviewed and approved by the Planning Board, must be re-submitted to the Planning Board for review and approval. Any amendments to an application for co-

location on a wireless telecommunications facility that has been previously reviewed and approved by the CEO, must be re-submitted to the CEO for review and approval.

Section 10. Expiration of Approval

Failure to commence substantial construction of any wireless telecommunications facility approved under this ordinance within two (2) years of the date of final Planning Board approval shall render the plan null and void."

Prior to the expiration of the Planning Board's approval of a wireless telecommunications facility, an applicant may apply for a one (1) year extension to the Planning Board's approval if the applicant can demonstrate that extraordinary or unusual circumstances beyond his control have caused a delay in the construction of the facility. Any request for an extension shall be made, in writing, at least sixty (60) days prior to the date of expiration, and shall be submitted to the CEO. In addition, no more than two (2) one-year extensions shall be granted by the Planning Board for any approval under this ordinance. For the purposes of this ordinance, "substantial improvement" shall mean two (2) or more of the following: the creation of a gravel drive to the site of the proposed facility (if one is required), the construction of at least forty percent (40%) of the towers height, and/or a completed foundation or concrete pad for any proposed buildings or structures associated with the facility. In all cases, the Planning Board shall make a finding that substantial construction has occurred when granting any request for an extension to a prior approval.

Section 11. Abandonment

Any wireless telecommunications facility that is not operational for a period of twelve (12) consecutive months shall be deemed to be abandoned. Upon determination that the facility has been abandoned, the CEO shall notify the owner and/or operator, in writing, by certified mail, of the abandonment determination. The owner and/or operator of the facility shall have thirty (30) days from the receipt of the notice to adequately demonstrate to the CEO that the facility has not been abandoned. Should the CEO find that, in his or her opinion, the evidence presented does not adequately demonstrate that the facility has not been abandoned and reaffirms the original determination, the CEO shall notify the owner and/or operator of the facility, in writing, within thirty (30) days of the final determination. The owner and/or operator may appeal the CEO's final determination by filing an appeal to the Board of Appeals within thirty (30) days of the receipt of the notice of final determination.

The owner and/or operator of a wireless telecommunications facility that is deemed to be abandoned shall remove the entire tower structure within thirty (30) days from the date that the facility was deemed to be abandoned. Any accessory buildings or structures, parking areas, security fencing, landscaping, and access roads shall be removed within thirty (30) days of the date that the facility was deemed to be abandoned, and the property shall be reclaimed, to the greatest extent possible, including the re-establishment of vegetation in order to return the property to a pre-construction condition.

If the facility is not removed within the required time periods, the Town of Chelsea may remove the facility, including the removal of any accessory buildings or structures, parking areas, security fencing, landscaping, and access roads, and, to the greatest

extent possible, return the property to a pre-construction condition, including the re-grading of the site and the re-establishment of vegetation. The owner and/or operator of the facility shall pay for all facility removal and site reclamation costs deemed necessary to complete the removal and reclamation process, or the Town shall draw upon the performance guarantee or similar accepted form of surety that was required by the Town as part of the facility's approval. Any remaining funds shall be returned to the individual or entity who gave the performance guarantee or similar accepted form of surety to the Town within sixty (60) days of the completion of all removal and reclamation work.

If a performance guarantee or similar accepted form of surety was required by the Town as part of the facility's approval, the individual or entity who gave the performance guarantee or similar accepted form of surety to the Town may request, in writing, that the Town Manager release said performance guarantee or similar accepted form of surety, but not until such time that the entire facility and related equipment are removed and the site is reclaimed to the satisfaction of the Town Manager and/or the CEO.

Section 12. Prior Existing Wireless Telecommunications Facilities

Any existing wireless telecommunications facility that was reviewed and approved by the Chelsea Board of Appeals prior to the adoption of this ordinance shall be regulated by those conditions and restrictions placed upon said facility as part of the Board's approval.

Any amendment or expansion of the facility beyond the approval granted by the Board of Appeals shall be reviewed and approved by the Planning Board or the CEO, as outlined under this ordinance. In addition, the Planning Board or the CEO may require the wireless telecommunications facility under consideration to come into compliance with the criteria outlined under this ordinance, to the greatest extent possible, as part of their review of an amendment or expansion of the facility.

Section 13. Appeal of Planning Board or Code Enforcement Officer (CEO) Decision

Any person aggrieved by the decision of the Planning Board to approve a wireless telecommunications facility under this ordinance may appeal the Board's decision to Superior Court within thirty (30) days of the Planning Board's decision, pursuant to Maine Rules of Civil Procedures 80-B.

Any person aggrieved by the decision of the CEO to approve a permit for the expansion to, or co-location on an existing wireless telecommunications facility, as outlined under this ordinance, may appeal the decision to the Board of Appeals within thirty (30) days of the CEO's decision. The notice of appeal shall clearly state the reason(s) for the appeal.

Section 14. Administration and Enforcement

The CEO shall be responsible for enforcing this ordinance.

If the CEO finds that any provision of this ordinance has been violated, the CEO shall notify, in writing, the person responsible for such violation, indicating the nature of the violation, and ordering the appropriate action necessary to correct it within a defined

time period. The CEO shall order correction of the violation and may take any other legal action necessary to ensure compliance with this ordinance.

The CEO of the Town of Chelsea is empowered and duly authorized to enter into administrative consent agreements for the purpose of resolving violations of this ordinance and recovering fines without initiating court action. Such agreements shall not allow a violation of this ordinance to continue unless there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith, the removal of the violation will result in a threat to public health and safety, and/or cause substantial environmental damage.

Section 15. Penalties

Any person or entity who owns, controls, or operates any building, property, or facility that violates this ordinance shall be notified by the CEO, in writing, of such violation and provided sufficient time to correct said violation, as determined by the CEO. Any person or entity who continues to violate this ordinance after being properly notified shall be fined in accordance with Title

30-A M.R.S.A. §4452. In addition, each day such violation(s) continues after proper notification shall constitute a separate offense.

Section 16. Conflict and Severability

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, the more restrictive provision shall apply.

Should any portion of this ordinance be determined to be invalid by a court of law, the invalidity shall not invalidate any other portion of this ordinance.

Section 17. Definitions

The words or terms used in this ordinance shall have the following meaning:

ANTENNA – any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

ANTENNA (TOWER) HEIGHT – the vertical distance measured from the base of the antenna support structure, at grade, to the highest point of the structure, even if said highest point is an antenna. Measurement of the tower height shall include the antenna, base pad, and other appurtenances, and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

CO-LOCATION – the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

EXPANSION – the addition of antennas, towers, or other devices to an existing (tower) structure.

FAA – the Federal Aviation Administration or its lawful successor.
FCC – the Federal Communications Commission or its lawful successor.

HEIGHT – the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure , to the highest point of the building or structure.

HISTORIC or ARCHEOLOGICAL RESOURCES – resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior; or,
4. Individually listed on a local inventory of historic places in communities with historic preservation programs certified by the Secretary of the Interior through the Maine Historic Preservation Commission.

HISTORIC LANDMARK – any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the national Register of Historic Places.

PRINCIPAL USE – the use other than one which is wholly incidental or accessory to another use on the same premises.

TARGETED MARKET COVERAGE AREA – the area which is targeted to be served by this proposed telecommunications facility.

UNREASONABLE ADVERSE IMPACT – that the proposed project would produce an end result which is;

- 1.) excessively out-of-character with the designated scenic resources affected, including existing buildings, structures and features within the designated scenic resource; and,
- 2.) would significantly diminish the scenic value of the designated scenic resource.

WIRELESS TELECOMMUNICATIONS FACILITY or FACILITY – any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, and personal communications services (PCS) or pager services.

Section 18. Effective Date

This ordinance shall become effective on: June 13, 2013.

FEE SCHEDULE

Site Plan Review: \$400.00

CEO Co-Location Review: \$250.00