

2018

Winthrop Maine Selected Ordinances

Winthrop (Me.). Municipal Officers

Follow this and additional works at: <https://digitalcommons.library.umaine.edu/towndocs>



Part of the [Public Affairs, Public Policy and Public Administration Commons](#)

Repository Citation

Winthrop (Me.). Municipal Officers, "Winthrop Maine Selected Ordinances" (2018). *Maine Town Documents*. 6877.
<https://digitalcommons.library.umaine.edu/towndocs/6877>

This Plan is brought to you for free and open access by DigitalCommons@UMaine. It has been accepted for inclusion in Maine Town Documents by an authorized administrator of DigitalCommons@UMaine. For more information, please contact um.library.technical.services@maine.edu.

ORDINANCE #31

AN ORDINANCE RELATING TO ALARM SYSTEMS

Article I

Title, Purpose and Definitions

SECTION 101. TITLE

This Ordinance shall be known and may be cited as the "Alarm Systems Ordinance of the Town of Winthrop, Maine."

SECTION 102. PURPOSE

The purpose of this Ordinance is to establish appropriate guidelines for the installation of alarm systems for notification of the Town of Winthrop's Police Department.

SECTION 103. DEFINITIONS

For the purpose of this Ordinance, certain words or terms used herein shall be interpreted or defined as follows:

Alarm System:

A system including any mechanism, equipment or device designed to automatically transmit or cause the transmission of a signal, message or warning from a private facility to any of the Town's public alarm systems or to the Communications Center, or to cause the activation of an audible device whose purpose or result is to obtain emergency response by the Winthrop Police Department.

Permanently Connected Alarm System:

An alarm system which transmits a signal to the Communications Center or other location by means of a wire or cable connection or radio equipment which is used only or primarily for that purpose.

Telephonic Alarm System or "Dialer":

An alarm system which operates automatically through the use of public telephone facilities to connect to a telephone with the Communications Center or other location, said line to be a separate telephone line and to be maintained and be paid for by installer.

Audible Alarm System

An alarm system which causes an audible signal to sound at or near the alarm premises, for the purpose of obtaining emergency response by the Police Department.

Non-Emergency Alarms:

Signals transmitted by an alarm system as a result of human error or equipment malfunction.

ARTICLE II

PERMITS

SECTION 201.

No person shall operate or maintain an alarm system as defined in Article I without first obtaining a permit.

SECTION 202.

The Town Manager shall be authorized to institute such guidelines as he deems desirable for determining the installation procedures for alarm systems.

SECTION 203.

Applications for permits to install, maintain, or operate an alarm system shall be filed with the Town Manager, or his designee, on forms supplied by the Town. Said application shall set forth the name, address, and telephone number of both the installer of the system and the person or business on whose premises the system will be installed, as well as a description of the system and the location where it is proposed to be installed. The application shall also set forth the name, address and telephone number of at least two individuals who have keys or access to the premises and/or alarm equipment. Permits shall be renewed annually on the same form as is used for the original application, and the person applying for renewal shall indicate thereon any changes in the information already supplied.

The application fee shall be fifteen dollars (\$15.00) and the renewal fee for such permit shall be five dollars (\$5.00).

There shall be no application fee or renewal fee for a permit for an audible alarm system.

SECTION 204.

1. The Town Manager shall approve such application if he finds that said alarm system will not interfere with the orderly conduct of Town business and that the person installing the system maintains an adequate service organization to repair, maintain or otherwise service alarm systems sold, leased or installed by him.
2. The Town Manager may impose other reasonable conditions on the exercise of said permits and shall retain final authority to decide the reasonableness of any other conditions.
3. The Town Manager, or his designee, shall demand any malfunctioning system to be inspected by the system installer, any alarm system on premise where it is intended to function prior to issuance of any permit for operation of such system, and he may inspect or cause an inspection, by the system installer or individuals qualified in alarm systems installation, of such system at anytime after the issuance of a permit to determine whether it is being used in conformity with the terms of the permit and the provisions of this Ordinance.
4. No person shall install, operate, or maintain a telephonic alarm system which automatically transmits or causes transmission of a signal, message or warning to the Town's Communications Center telephone lines, except to such telephone number or numbers as designated by the permit issued under the provisions of this Ordinance. The Town Manager may refuse to issue a permit for such system if in his opinion the existing telephone capacity of the Communications Center is not sufficient to accomodate the new system. No more than six such permits will be issued for each available incoming telephone line at the Communications Center or other reception point. Furthermore, no such system shall be designed or adjusted to make more than two (2) calls per incident to the Communications Center.
5. The Town Manager may revoke any permit issued pursuant to the provisions of this Ordinance, after giving written notice to the permit holder and an opportunity for the permit holder to be heard, if he determines that the alarm system installed pursuant to said permit has been installed, maintained or operated in violation to the provisions of this Ordinance, or of any term or condition of said permit, or for failure to pay any fee specified in Article II.

ARTICLE III

TRANSMISSION OF NON-EMERGENCY ALARMS

SECTION 301.

Any permit holder whose system causes the transmission of a non-emergency alarm more than twelve (12) times in any one calendar year, other than testings, shall pay a fine as described in Section 401 for each instance of a non-emergency alarm in excess of twelve (12) such alarms in one calendar year. Multiple alarms in any 24-hour period which are transmitted as a result of the same malfunction may, at the discretion of the Chief of Police, be treated as a single non-emergency transmission.

Any permit holder whose system causes the transmission of two or more non-emergency alarms within a twenty-four hour period, weekends excluded, shall, upon request, immediately obtain competent service or disconnect the system and shall not reconnect it until it has been inspected in accordance with Section 204.3 of this Ordinance.

SECTION 303.

If after reasonable effort the Town is unable to locate and notify the permit holder or installer of a system which has transmitted two or more non-emergency alarms within a twenty-four hour period, weekends excluded, the Town shall have the right to disconnect the system from the Communications Center without prior notice to the permit holder. The Town shall make a reasonable effort to notify the permit holder by mail of any action taken under this section.

SECTION 304.

Upon receipt of an alarm message or signal from an alarm system for which a permit has been issued under this Ordinance, and subject to the availability of manpower and equipment, the Town will dispatch representatives of the Police Department to the alarm location to take appropriate action. If the premises in which the alarm system is installed appear to be secure and there is no evidence to indicate that there is an emergency situation requiring the presence or action of the Police Department, the Town's obligation to the permit holder shall have been discharged upon the completion of one telephone call to the permit holder, the system installer, or of the individuals named on the permit application, or whichever is appropriate as required in Section 203 of this Ordinance.

ARTICLE IV
FINES AND PENALTIES

SECTION 401. Fines

Subsequent Non-Emergency Burglary Alarms:

1st.....	\$10.00
2nd.....	\$15.00
3rd.....	\$20.00
4th and subsequent.....	\$25.00

Fire Alarms.....\$100.00

SECTION 402. Penalty

Whoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00).

ARTICLE V
SAVINGS CLAUSE

SECTION 501.

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision.

ARTICLE VI
EFFECTIVE DATE

SECTION 601.

This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 602.

The application fees required by Section 203 shall be waived for all permits issued prior to the effective date of this Ordinance.

SECTION 603.

Permit applications for existing alarm systems must be filed within thirty (30) days after the effective date of this Ordinance.

Adopted: August 4, 1980

ORDINANCE #18

ORDINANCE RELATING TO ANIMALS, FOWL AND REPTILES

Section 1. Animal Control Officer.

The Town Manager shall appoint an animal Control Officer for the purpose of enforcing the provisions of this ordinance and Title, 7M.R.S.A, § 3911, 3912, 3921, 3924, 3943, 3948, 3950, 3950-A, and Title 22, § 1313 and 1313-A.

Section 2. Authority to impound animals

Any police officer, duly authorized animal control officer or person exercising police power under the provisions of this ordinance shall have the authority to impound animals, that are in violation of this ordinance.

Section 3. Definitions.

Unless the context otherwise indicates, the following definitions shall apply in the interpretation and enforcement of this ordinance.

Dog shall mean either a male or female member of the genus and species known as *canis familiaris* or any canine regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid.

At large shall mean off the premises of the owner, and not under the control of the owner or any other person whose personal presence and attention would reasonably control the conduct of the animal, either by leash, cord, chain or otherwise.

Dangerous dog shall mean a dog that causes a reasonable and prudent person who is acting in a reasonable and nonaggressive manner to fear bodily harm by attacking or threatening to attack that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement purposes.

Domesticated animal shall include but not be limited to dogs, cats, ferrets, reptiles, fowl, wildlife hybrids or livestock.

Kennel shall mean one pack or collection of dogs kept under one ownership in a single premise for breeding, hunting, show, training, field trials and exhibition purposes. "One pack or collection" could be one to ten dogs.

Owner shall mean any person or persons, firm, association or corporation owning, keeping, harboring or in possession of or having control of a domesticated animal.

Under restraint shall mean that a dog is controlled by a leash, cord, chain or "at heel," beside a competent person and obedient to that person's commands or on or within a vehicle being driven or parked on the streets or within the property limits of its owner or keeper.

Section 4. Licensing of Dogs.

- (a) The owner of any dog at the age of six months or over, except dogs under a Kennel License, shall, on or before January first, annually, or at such time as such dog becomes six months old cause such dog to be licensed in accordance with Title 7, M.R.S.A., §3922.
- (b) Any person becoming the owner of a dog aged six months or more after the first day of January, not duly licensed as required, shall, within (10) days after he/she becomes the owner of such dog, cause said dog to be licensed in accordance with Title 7, M.R.S.A., § 3922.
- (c) A suitable tag showing the year such license is issued, and bearing such other data as may be required shall be given with each license and must be worn at all times by the dog for which the license was issued as provided in Title 7 M.R.S.A. § 3923-B.
- (d) The owner of any unlicensed dog may be summoned to court for a civil violation as provided in Title 7, M.R.S.A., § 3924.

Section 5. Reclaiming impounded animals.

Any animal, impounded under the provisions of this ordinance may be reclaimed by the owner upon payment of the impoundment fees required in section 6 and any required license fees. To reclaim a domesticated animal, the owner must also comply with any applicable license provisions of state law, in accordance with Title 7, M.R.S.A. § 3922.

Section 6. Impoundment Fees.

Any animal impounded pursuant to this ordinance may be reclaimed as provided by section 5 upon payment, by the owner, of the following fees:

- (a) For each animal, first impoundment \$ 10.00
- (b) For each animal, second impoundment 20.00

(c) For each animal, third and all subsequent impoundment's.....30.00

Boarding of such domesticated animals shall be charged in accordance with the fees of the animal shelter currently designated by the town to receive impounded animals.

Section 7. Town authorized to transfer title to animals detained.

The Town or its duly authorized agent may transfer title of all animals held by it at its designated animal shelter after the legal detention period established in section 8 has expired and the animal has not been claimed by its owner.

Section 8. Impounded animals may be destroyed, given away.

Any animal impounded under the provisions of this ordinance and not reclaimed by its owner within the period of time established by state law may be humanely destroyed or placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this ordinance.

Section 9. Disposition of rabid animals.

The Town's health officer, duly authorized animal control officer or a police officer shall direct the disposition of any animal determined to be infected with rabies.

Section 10. Disposition of animals bitten by rabid animals during quarantine.

During the period of time when a rabies quarantine invoked pursuant to this ordinance is in effect, every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed or, at the owner's expense and option, shall be treated for rabies infection by a licensed veterinarian, or held under quarantine pursuant to quarantine provisions of state law.

Section 11. Duty to surrender animals for quarantine or destruction upon demand.

No person shall fail or refuse to surrender any animal for quarantine or destruction as required by this ordinance when demand is made therefor by the Town's health officer, duly authorized animal control officer, or a police officer.

Section 12. Surrender of carcass of animal exposed to rabies.

The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the health officer, duly authorized animal control officer or a police officer.

Section 13. Animals not permitted in streets during quarantine.

Upon the invoking of quarantine pursuant to this ordinance, no animal shall be taken into the streets or be permitted to be on the streets during such period of quarantine.

Section 14. Depositing dead, sick or injured animals.

No person shall deposit, place or throw any dead or fatally sick or injured animal, or part thereof, on any public or private place.

Section 15. Disposal of dead animals required.

When any animal dies on the premises of the owner or person in charge of such animal, he shall dispose of such animal immediately in accordance with Title 22 M.R.S.A. § 1562.

Section 16. Duty to report dead, sick or dying animals; disposition.

When any animal is found dead, sick or dying on the private premises of any person not the owner of such animal shall report it to the police department, and the police department shall be responsible for its removal forthwith. If by license or otherwise the owner of the animal is known to the police department, the department shall notify at once such owner, who shall be responsible for the immediate removal of the body or veterinary care of the sick or dying animal.

Section 17. Permitting of animals to run at large prohibited.

No owner of any horse, cow, ox, swine, goat or other grazing animals shall turn or permit the same to go at large in any street or public place within the Town.

Section 18. Dogs running at large.

- (a) No owner of a dog, whether licensed or unlicensed shall permit such dog to run at large within the Town limits. Any dog found to be running at large shall be picked up and impounded either at the police department or at the animal shelter currently designated by the town to receive impounded animals.

- (b) The owner of any dog found to be running at large shall pay to the Town of Winthrop a pickup fee in accordance with Section 6 of this ordinance.
- (c) Pick-up fees as required by this section shall be paid at the Winthrop Police Department and proof that the dog is licensed shall be required prior to the return of such dog to the owner.
- (d) Pick-up fee shall be waived provided the owner of the dog has, prior to pick-up, reported to the Police Department that his or her dog is missing.
- (e) In addition to other fees, the owner of any dog found running at large may be subject to the penalties provided in M.R.S.A., Title 7 Section 3915.
- (f) Dogs while on any public way or place shall be under restraint. A dog leash shall not be more than eight (8) feet in length
- (g) Nothing in this section shall require the leashing of any dog while on private premises.

Section 19. Impoundment of domesticated animal bitten by possible rabid animal.

Any domesticated animal that has been bitten by an animal having or suspected of having rabies shall be immediately quarantined for observation in the manner provided for under state law.

Section 20. Disposition of domesticated animals which have bitten persons.

- (a) It shall be unlawful for the owner of any domesticated animal, when notified that such animal has bitten or has injured any person so as to cause an abrasion of the skin, to sell, give away, or to permit or allow such animal to be taken beyond the limits of the Town, except under the care of a licensed veterinarian.
- (b) It shall be the duty of such owner, upon receiving notice of the character aforesaid, to immediately place such animal under confinement for a period established by state law or to deliver such animal to the police department or animal control officer or an approved impoundment facility.
- (c) It shall be unlawful for the owner, when notified that such animal has bitten any person or has so injured any person so as to cause an abrasion of the skin, to destroy such animal without permission of the health officer, duly authorized animal control officer or a police officer.

Section 21. Duty to give notice upon death of confined domesticated animal.

The authorized animal control officer or police officer shall be notified immediately by the person in charge of the death of any dog confined as required by section 20.

Section 22. Bites by domesticated animals.

The authorized animal control officer or police officer shall investigate all bites by domesticated animals.

Section 23. Authority to kill dangerous, fierce, vicious dogs.

If any dangerous, fierce or vicious dog cannot be safely taken up and impounded; such dog may be slain by any police officer or duly authorized animal-control officer.

Section 24. Duty of police department to deliver carcass of slain dog.

In all cases where a dog has bitten or caused an abrasion on the skin on any person, and is slain by a police officer, whether by order of the court or otherwise, and a period of less than fifteen (15) days has elapsed since the day on which the dog bit or caused an abrasion of the skin of someone, the Winthrop Police Department shall deliver the carcass of the dog to the Health & Environmental Testing Laboratory in accordance with state law.

Section 25. Barking, howling dogs.

- (a) No person shall own, keep or harbor any dog which by loud, frequent or habitual barking, howling or yelping shall unnecessarily annoy or disturb the peace of any person.
- (b) Upon receiving a complaint of a barking or howling dog the authorized animal control officer or police officer shall investigate the allegation and upon probable cause may give notice to the owner of such dog that such annoyance and disturbance must cease.
- (c) Thereafter, upon continuation of such annoyance or disturbance such owner or keeper shall be subject to a fine of \$25.00 for the first offense, \$50.00 for the second offense, \$100.00 for the third offense and \$250.00 for each subsequent offense.

Section 26. Dangerous dogs a nuisance; owner's responsibility.

- (a) A dangerous dog is hereby declared to be a nuisance. In addition to all other applicable requirements of law, any dog determined to be dangerous within the

meaning of this section shall be kept muzzled and/or confined within a secure enclosure whenever outside. The muzzle and/or enclosure must be sufficient to protect people, especially children, from said dog.

- (b) Upon receiving a complaint or receipt of a petition signed by at least five (5) owners or occupants of property located within five hundred (500) feet of the property on which the dog in question is kept, the authorized animal control officer or police officer shall investigate the allegation and upon probable cause may give notice to the owner of such dog shall be kept muzzled and/or confined within a secure enclosure whenever outside pending a court determination. A court of competent jurisdiction shall determine whether the dog is dangerous within the meaning of this section. The animal control officer or a police officer is authorized to impound such dog pending the outcome of the court's determination.
- (c) The Chief of Police or his/her designee and the corporation counsel is authorized to seek appropriate legal and equitable relief in a court of competent jurisdiction to enforce the terms of this section. In addition to any equitable relief, a fine of one hundred dollars (\$100.00) a day shall be imposed for each and every day that the violation continues.

Section 27. Reptiles; Not to create nuisance; disposition.

- (a) No person shall keep or display any reptile in such a manner so as to constitute a public nuisance or cause an affront or alarm to any member of the general public.
- (b) It shall be unlawful for any owner or keeper of any reptile to allow such reptile to be on a public way or in a public place so as to be visible by any member of the general public. Any owner transporting a reptile shall do so with the reptile enclosed in an escape proof enclosure.
- (c) The exhibition of any reptile at any licensed event by the promoters of such an event where the general public pays a fee or enters an enclosed area for the purpose of viewing any reptile shall be exempt from this section.
- (d) Nothing in this section shall prevent the legitimate sale or exhibition of reptiles for educational purposes.

Section 28. Penalty; action in lieu of penalty.

Except as specifically provided in section 25 above, whoever keeps a domesticated animal contrary to the provisions of this ordinance shall be punished by a fine of not more than one hundred dollars (\$100.00) to be recovered by complaint before any district court in

the county where such owner resides. In addition or in lieu of such fine, the court may order such owner or keeper within twenty-four (24) hours thereafter to kill, dispose of or confine the animal, or remove and keep the animal beyond the Town limits.

Section 29. Validity of Ordinance

Should any section or part thereof of this Ordinance be held by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Adopted: December 6, 1999 (Previous Ordinance #18 Repealed)
Effective Date: January 7, 2000

ORDINANCE

Article 44 – 2002

CURFEW

1. Definitions.

The following words, terms and phrases, when used in this ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means from 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. of the following day, and from 11:59 p.m. on any Friday or Saturday until 5:00 a.m. of the following day.

Emergency means an unforeseen combination of circumstances or resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian means a person who, under court order, is the guardian of the person of a minor, or a public or private agency with which a court has placed a minor.

Minor means any person less than 18 years of age.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is a natural parent, adoptive parent, or stepparent of another person, or at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, parks, streets, highways, parking lots and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain means to linger or stay, or fail to leave premises when requested to do so by a police officer or owner, operator, or other person in control of the premises.

Seriously bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

2. Violations.

- (a) A minor commits a violation of this ordinance if he or she remains in any public place or on the premises of any establishment within the town during curfew hours.
- (b) A parent or guardian of a minor commits a violation of this ordinance if he or she knowingly permits, or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the town during curfew hours.
- (c) The owner, operator, or any employee of an establishment commits a violation of this ordinance if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

3. Defenses.

- (a) It is a defense to prosecution under Section 2, subsections (a) or (b) above that the minor was:
- (1) Accompanied by the minor's parent or guardian;
 - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) In a motor vehicle involved in interstate travel;
 - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (5) Involved in an emergency;
 - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (7) Either (i) attending an official school, religious, or other recreational or civic activity supervised by adults and sponsored by the town, a civic organization, or another similar entity that takes responsibility for the minor, or (ii) within 45 minutes prior to the commencement of or after the termination of an official school, religious or other recreational or civic activity supervised by adults and sponsored by the town, a civic organization, or another similar entity that takes responsibility for the minor, going to or returning home from such activity;
 - (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;
 - (9) Exercising rights protected under Article I, Section, 3,4, 5 or 15 of the Maine Constitution; or
 - (10) Married or had been married or had disabilities of minority removed in accordance with 15 M.R.S.A. Section 3306-A.
- (b) It is a defense to prosecution under Section 2, subsection (c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

4. Enforcement.

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (a) is present.

5. Penalties.

A person who violates a provision of this ordinance commits a separate violation for each day or part of a day during which the violation is committed, continued, or permitted. Each violation is punishable by a civil penalty of not less than \$25.00 and not more than \$100.00.

6. Severability.

In the event any section, subsection or portion of this ordinance is determined to be invalid for any reason, such invalidity shall not affect the validity of any other section, subsection or portion of the ordinance.

Town of Winthrop Emergency Management Ordinance

Purpose

It is the intent and purpose of this Ordinance to establish an of Emergency Management Agency in compliance and in conformity with the provisions of Title 37-B, MRSA, Section 781 et seq., to ensure the complete and efficient utilization of the Town's facilities and resources to combat disaster as defined herein.

Definitions

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

Emergency Management Agency. "Emergency Management Agency" means the agency created under this ordinance for the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, in order to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy or terrorist attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, public warning and communications services; evacuation of persons from stricken areas; allocation of critical materials in short supply; emergency transportation; other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.

Emergency Management Agency Forces. "Emergency Management Agency Forces" shall mean the employees, equipment and facilities of all Town departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

Director. "Director" means the director of the Town of Winthrop's Emergency Management Agency, appointed as prescribed in this ordinance.

Disaster. "Disaster" means 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 water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, critical material shortage, infestation, explosion or riot.

Organization

The Town Manager shall be responsible for the agency's organization, administration and operation. The Town Manager may employ such permanent or temporary employees as he deems necessary and prescribe their duties.

The Town Council shall review the existing operational organization to ascertain the agency's ability to cope with its responsibilities and shall approve the Town's Emergency Operations Plan.

Appointment of Director; Duties and Responsibilities

The Town Manager shall appoint an Emergency Management Director, who shall coordinate the activities of all Town departments, organizations and agencies for civil emergency preparedness within the town and maintain a liaison with other emergency management agencies, public safety agencies, and have such additional duties as prescribed by the Town Manager.

Rules and Regulations

The Emergency Management Director shall prepare, under the direction of the Town Manager, such policies as may be deemed necessary for the administration and operational requirements of the agency, which policies must be approved by the Town Council prior to becoming effective.

Emergency Proclamation

The Town Manager shall have the power and authority, after consultation with the Chair person of the Town Council, to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the Town. If the Town Manager is temporarily absent from the Town or otherwise unavailable, the person designated by the Town Manager under Article III Section 302 of the Town Charter may issue the proclamation that an emergency exists. If neither the Town Manager nor the person designated to act in the Town Manager's absence is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Emergency Management Director, the Police Chief, the Fire Chief, and the Public Works Director. A copy of such proclamation shall be filed within twenty-four (24) hours in the office of the Town clerk.

Notwithstanding the above, when consultation with the Town Manager would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the Town Manager, or his successor as outlined above, is authorized to take whatever actions are necessary to prevent the loss of life and property in the town. The Town Manager and the Emergency Management Director shall be responsible for submitting a full report to the Town Council of all actions taken as a result of the declared emergency as soon as the Town Council can be convened.

Termination of Emergency

When the Town Manager or his successor as outlined above is satisfied that a disaster or civil emergency no longer exists, he shall terminate the emergency proclamation by another proclamation affecting the sections of the Town covered by the original

proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the Town clerk.

No state of emergency may continue for longer than five (5) days unless renewed by the Town Council.

Town Manager's Duties and Emergency Powers

During any period when an emergency proclamation is in effect, the Town Manager may promulgate such regulations as he deems necessary to protect life and property and to preserve critical resources within the purposes of this ordinance. Such regulations may include, but are not limited to, the following:

1. Regulations prohibiting or restricting the movement of vehicles in areas within or without the Town;
2. Regulations facilitating or restricting the movement of persons within the Town;
3. Regulations pertaining to the movement of persons from hazardous areas within the Town;
4. Such other regulations necessary to preserve public peace, health and safety.

Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted to them by state statute, Town ordinance or the charter of the Town of Winthrop.

The Town Manager or his designee may order the evacuation of persons from hazardous areas within the town.

The Town Manager or his designee shall be authorized to request aid or assistance from the state or any political subdivision of the state and may render assistance to other political subdivision under the provisions of Title 37-B, M.R.S.A.

The Town Manager may obtain vital supplies, equipment and other items found lacking and needed for the protection of health, life and property during an emergency without following normal purchasing or formal bid procedures.

The provisions of this section will terminate at the end of the declared emergency.

Emergency Operations Plan

The Emergency Management Director shall prepare an all hazard Emergency Operations Plan (EOP) for the Town, which shall be submitted to the Town Council for approval. The EOP shall incorporate the principals of the National Emergency Management System (NIMS) and the Incident Command System (ICS).

It shall be the responsibility of all municipal departments and agencies to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The town plan shall be reviewed periodically by the Town Manager in

conjunction with all the town department heads and the Emergency Management Director.

Immunity from Liability

All Emergency Management Agency Forces, while engaged in Emergency Management Agency activities, shall be immune from liability, as set forth in Title 37-B, Section 822 M.R.S.A.

Compensation for Injuries

All Emergency Management Agency Forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the Workmen's Compensation Act, as set forth in Title 37-B, Section 823 M.R.S.A.

Violation of Regulations

It shall be unlawful for any person to violate any provisions of this ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to obstruct, hinder or delay any Emergency Management Agency Forces as herein defined in the enforcement of the provisions of this ordinance or any regulation or plan issued hereunder.

Penalty

Any person, firm or corporation violating any provision of this ordinance or any rule or regulation promulgated hereunder, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) and the costs of prosecution.

Severability

Should any provisions of this ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this ordinance as a whole, it being the legislative intent that the provisions of this ordinance shall be severable and remain valid notwithstanding such declaration.

Conflicting Ordinances, Orders, Rules and Regulations Suspended.

At all times when an emergency proclamation is in effect, the orders, rules and regulations made and promulgated pursuant to this ordinance shall supersede all existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent herewith.

TOWN OF WINTHROP
CONSUMER FIREWORKS ORDINANCE

A. Purpose. This Ordinance prohibits the sale and restricts the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Winthrop and of the general public.

B. Title and Authority. This Ordinance shall be known as the "Town of Winthrop Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions of P.L. 2011, ch. 416, § 5 (effective Jan. 1, 2012), *codified at* 8 M.R.S.A. § 223-A.

SECTION 2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

SECTION 3. Sale of Consumer Fireworks Prohibited.

No person shall sell, possess with the intent to sell, or offer for sale consumer fireworks within the Town of Winthrop.

SECTION 4. Use of Consumer Fireworks Restricted

No person shall use, possess with the intent to use, display, fire, or cause to be exploded consumer fireworks within the Town of Winthrop except in compliance with all federal, state and local laws, ordinances, rules and regulations. Use of consumer fireworks within the Town of Winthrop is further restricted as follows:

A. General Restrictions.

(1) The Town assumes no liability for injuries that result from the use of consumer fireworks.

(2) A person shall use consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property. The use of consumer fireworks on public property is prohibited.

(3) A person shall not use consumer fireworks if the forest fire danger is Class "3" or greater, as determined by the Department of Conservation, Maine Forest Service.

(4) Consumer fireworks shall not be used within 100 feet of any combustible structure or within 50 feet of overhead power lines.

(5) Spectators shall be no closer than 75 feet from the discharge point of consumer fireworks.

(6) Any person using consumer fireworks must provide for the cleanup and removal of all debris.

(7) As provided for by 8 M.R.S.A. § 223-A, no person shall knowingly procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks.

(8) It shall be unlawful for any person using consumer fireworks to consume alcohol, be under the influence of alcohol or be otherwise impaired while using consumer fireworks.

(9) Means to extinguish any spot fires resulting from the use of consumer fireworks must be available, including but not limited to, fire extinguishers and garden hoses. Access to 9-1-1 by landline or mobile telephone also must be available during the use of consumer fireworks should an emergency arise.

B. Hours of Use.

Consumer fireworks may be used during the hours of 9 a.m. and 9 p.m.,

except that on the follow days they may be used between the hours of 9 a.m. and 12:30 a.m. the following day: (1) July 4th; (2) December 31st; and (3) the Saturday and Sunday immediately before and after July 4th and December 31st.

SECTION 5. Violation and Enforcement.

- (a) Penalty for Sale Violation.** Any person who violates the provisions of Section 3 (Sale of Consumer Fireworks Prohibited) shall commit a civil violation punishable by a penalty of five hundred dollars (\$500.00) plus attorney's fees and costs for the first offense, and a penalty of one thousand dollars (\$1,000.00) plus attorney's fees and costs for subsequent offenses. Each day such violation occurs or continues to occur shall constitute a separate violation.
- (b) Penalty for Use Violation.** Any person who violates the provisions of Section 4 (Use of Consumer Fireworks Restricted) shall commit a civil violation punishable by a penalty of two hundred dollars (\$200.00) plus attorney's fees and costs for the first offense, and a penalty of one thousand dollars (\$1,000.00) plus attorney's fees and costs for subsequent offenses within six years of a use violation. Each day such violation occurs or continues to occur shall constitute a separate violation.
- (c) Enforcement.** This Ordinance shall be enforced by the Town of Winthrop Police Department.
- (d) Injunction.** In addition to any other remedies available at law or equity, the Town of Winthrop, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.
- (e) Seizure & Disposal of Consumer Fireworks.** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

SECTION 6. Exceptions.

This section does not apply to a person issued a fireworks display from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 M.R.S.A. §§ 221-237, and particularly Section 227-A. A fireworks display shall comply with all federal, state, and local laws, ordinances, and regulations.

SECTION 7. Annual Review.

The Winthrop Town Council will hold an annual public hearing to decide if any further revision of this Ordinance is warranted.

SECTION 8. Severability.

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

SECTION 9. Effective Date.

This Ordinance shall take effect and be in force 30 days after its adoption by the Town Council. Notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance applies to any applications pending or approved on the date of its passage, whether or not such applications would constitute a "pending proceeding" under 1 M.R.S.A. § 302.

Adopted by Town Council: February 6, 2012

WINTHROP GENERAL ASSISTANCE ORDINANCE



**Prepared by Maine Municipal Association
August 2017**

**GENERAL ASSISTANCE ORDINANCE
APPENDICES A-D
2017-2018**

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

Signed the 6 (day) of November (month) 2017 (year)
by the municipal officers:

Linda Capara

(Print Name)

SARAH P. FULLER

(Print Name)

Priscilla J Jenkins

(Print Name)

Linda MacDonald

(Print Name)

Barbara J. Buck

(Print Name)

Rita Moran

(Print Name)

Linda Capara

(Signature)

[Signature]

(Signature)

Priscilla J Jenkins

(Signature)

Linda MacDonald

(Signature)

Barbara J. Buck

(Signature)

Rita Moran

(Signature)

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	6
Household	6
Income.....	6
Initial Applicant	8
Just Cause.....	8
Lump Sum Payment.....	8
Material Fact.....	8
Maximum Levels of Assistance	9
Misconduct	9

Municipality.....	9
Municipality of Responsibility.....	9
Need.....	9
Net General Assistance Costs.....	9
Period of Eligibility.....	9
Pooling of Income.....	9
Real Estate.....	10
Recipient.....	10
Registered Domestic Partner.....	10
Repeat Applicants.....	10
Resident.....	10
Resources.....	10
30-Day Need.....	11
Unforeseen Repeat Applicants.....	11
Unmet Need.....	12
Work Requirements.....	12
 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</u> – Application Interview	17
<u>Section 4.3</u> – Contents of the Application	17
<u>Section 4.4</u> – General Assistance Administrator’s Responsibilities at the Time of the Application	18
Application Requirements.....	18
Eligibility Requirements	19
Applicant Rights.....	19
Reimbursement/Recovery	19
<u>Section 4.5</u> – Responsibilities of the Applicant at the Time of Application	20
<u>Section 4.6</u> – Action on Applications	21
Written Decision	21
Content.....	21
<u>Section 4.7</u> – Withdrawal of an Application	22
<u>Section 4.8</u> – Temporary Refusal to Accept Application	22
<u>Section 4.9</u> – Emergencies	23
Disqualification	23
Assistance Prior to Verification.....	24
Telephone Applications	24
Limitation on Emergency Assistance	24
<u>Section 4.10</u> – Residence	26
Moving/Relocating	26
Institutions	26
Temporary Housing	27
Disputes	27
 Article V – Eligibility Factors	28
<u>Section 5.1</u> – Initial Application	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>	31
a) Principal Residence	31
b) Other Property	33
<u>Section 5.5 – Work Requirement</u>	33
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.....	37
Exemptions	37
<u>Section 5.6 – Municipal Work Program</u>	38
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.....	43
Reports.....	44

<u>Section 5.7 – Use of Resources</u>	44
Minors	44
Mental or Physical Disability.....	45
Written Notice; Disqualification.....	46
Forfeiture of Benefits	46
<u>Section 5.8 – Period of Ineligibility</u>	46
Work Requirement	47
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>	<u>78</u>
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>	<u>82</u>
Written Decision	82
Contents	83
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 Winthrop 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 after receipt of 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 | permanent lodging is |
| • Alcohol | available unless a security |
| • Pet care costs | deposit is paid, and a waiver, |
| • Vacation costs | deferral or installment |
| • Legal fees | arrangement cannot be made |
| • Late fees | between the landlord and |
| • Key deposits | tenant to satisfy the need for |
| • Security deposits for rental | the immediate payment of the |
| property(except for those | security deposit or payment in |
| situations where no other | 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 benefits from the municipality according to the standards of eligibility set forth in this ordinance, Maine General Assistance law (22 M.R.S.A. ch. 1161), and Maine Department of Health & Human Services regulations (10-144 C.M.R. ch. 323). If otherwise qualified, “Eligible Person” shall include U.S. citizens; non-U.S. citizens who are lawfully present in the United States as described in 8 U.S.C. § 1621(a)(1)-(3); and non-U.S. citizens who are pursuing a lawful process to apply for immigration relief. Assistance for non-citizens pursuing a lawful process for immigration relief shall not exceed 24 months beginning with assistance provided after July 1, 2015. “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.

Registered Domestic Partner. An individual registered as the domestic partner of the applicant pursuant to 22 M.R.S.A. § 2710.

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 or any employer of a general assistance applicant who, upon receipt of a written release signed by the depositor and a written request from the Administrator, 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. Effective November 1, 2017 national banks are also obligated to disclose deposit information to the Administrator upon receipt of a written request and

release signed by the depositor. Additionally, effective November 1, 2017, when a municipality or its agents are acting in accordance with section 4313(2) to verify eligibility for funeral or cremation benefits, an officer of a financial institution must disclose the amount deposited upon receipt of a written request from the municipality or its agents and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased. 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; | household members for whom the applicant is seeking assistance; |
| b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other | c) total number of individuals living with the applicant; |
| | d) employment and employability information; |

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

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

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

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

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

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

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-basic necessities;
- immigration status (see definition of "Eligible Person"); 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 an “Eligible Person” as defined in section 2.2, is in need, and has complied with the eligibility requirements set forth below. For guidance in determining whether an applicant is an Eligible Person, contact the Department of Health & Human Services at (800) 442-6003 (TTY: 287-6948).

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 work search 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 non-elective 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 he or she is not eligible for the hospital's free care program.

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

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

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

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

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

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

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

Section 6.9—Burials; Cremations

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

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

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

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

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

The Financial Responsibility of Certain Family Members. Through October 31, 2017, 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. Effective November 1, 2017, grandparents, parents, children and grandchildren of the deceased whether or not living in or owning property in Maine, and the spouse or registered domestic partner of the deceased, 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. The Administrator may also seek information from financial institutions holding assets of the deceased. Effective November 1, 2017, Maine law requires a financial institution to disclose the amount deposited in the corporation or association when the municipality or its agents are acting in accordance with section 4313(2) and provide a written request and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased.

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, the grandchildren, children, parents, grandparents, and effective November 1, 2017, the spouse and a registered domestic partner, 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.

2017-2018 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	714	788	994	1,242	1,506
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	605	682	847	1,095	1,269
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	641	726	915	1,169	1,397
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	1,002	1,131	1,431	1,931	2,097
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	982	1,025	1,333	1,714	2,173
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	761	807	1,072	1,561	1,780

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

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

Non-Metropolitan Areas

Persons in Household

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

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

Appendix B
Effective: 10/01/17 to 09/30/18

2017-2018 Food Maximums

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

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

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

Appendix C

Effective: 10/01/17 to 09/30/18

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

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

Non-Metropolitan FMR Areas

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

Non-Metropolitan FMR Areas

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

Non-Metropolitan FMR Areas

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

Metropolitan FMR Areas

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

Metropolitan FMR Areas

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

2017-2018 GA MAXIMUMS SUMMARY SHEET

Winthrop

Note: The overall maximums found in *Appendices A, B, C, D, E, and F* are effective from **October 1, 2017 to September 30, 2018.**

APPENDIX A - OVERALL MAXIMUMS

<u>County</u>	<u>Persons in Household</u>					
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
	722	746	928	1,216	1,297	1,372

NOTE: For each additional person add \$75 per month.

(The applicable figures from Appendix A, *once adopted*, should be inserted here.)

APPENDIX B - FOOD MAXIMUMS

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

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

APPENDIX C - HOUSING MAXIMUMS

<u>Number of Bedrooms</u>	<u>Unheated</u>		<u>Heated</u>	
	<u>Weekly</u>	<u>Monthly</u>	<u>Weekly</u>	<u>Monthly</u>
0	131	564	154	662
1	131	564	158	679
2	168	724	198	851
3	219	943	262	1,126
4	226	971	278	1,194

(The applicable figures from Appendix C, *once adopted*, should be inserted here.)

FOR MUNICIPAL USE ONLY

MMA
08/17

Winthrop
ELECTRIC

APPENDIX D - UTILITIES

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

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

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

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

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

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

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

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

APPENDIX E - HEATING FUEL

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

FOR MUNICIPAL USE ONLY

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

Winthrop

APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES

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

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

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

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

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

FOR MUNICIPAL USE ONLY

3

MMA
08/17

Appendix D

Effective: 10/01/17 to 09/30/18

2017-2018- ELECTRIC UTILITY MAXIMUMS

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	\$19.90	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

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

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

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

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

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: 10/01/17 to 09/30/18

2017-2018 HEATING FUEL MAXIMUMS

<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

Effective: 10/01/17 to 09/30/18

2017-2018 PERSONAL CARE & HOUSEHOLD SUPPLIES
MAXIMUMS

<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

APPENDIX G

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).]

Adopted April 2, 2018
Extended on September 10, 2018

Ordinance 2018-01

MUNICIPALITY OF WINTHROP MORATORIUM ORDINANCE REGARDING RETAIL RECREATIONAL MARIJUANA

WHEREAS, the legislative body of the Municipality of Winthrop (the “Municipality”) makes the following findings:

- (1) The Marijuana Legalization Act (the “Act”) was approved by Maine voters in November 2016 and has been codified in the Maine Revised Statutes in Title 7, chapter 417; and
- (2) The unregulated location and operation of “Retail Marijuana Establishments” and “Retail Marijuana Social Clubs,” as defined in 7 M.R.S.A. chapter 417, as well as other types of retail recreational marijuana activity within the Municipality raises legitimate and substantial questions about the impact of such activity, establishments and social clubs on the Municipality, including questions as to compatibility with existing land uses and developments in the municipality; potential adverse health and safety effects on the community; the possibility of illicit sale and use of marijuana and marijuana products to and by minors; and the possibility of unlawful use of marijuana and marijuana products; and
- (3) As a result of the foregoing issues, retail recreational marijuana activity, and the location and operation of Retail Marijuana Establishments and Retail Marijuana Social Clubs within the Municipality, have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
- (4) The Municipality currently has no regulations governing retail recreational marijuana activities, Retail Marijuana Establishments and Retail Marijuana Social Clubs, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of Retail Marijuana Establishments and Retail Marijuana Social Clubs and from other types of retail recreational marijuana activity; and
- (5) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of Retail Marijuana Establishments and Retail Marijuana Social Clubs locating in the Municipality and/or other types of retail recreational marijuana activity in the Municipality; and
- (6) The state’s regulatory structure is unknown at this time as the Maine Legislature and state agencies have not developed final legislation or regulations governing Retail Marijuana Establishments and Retail Marijuana Social Clubs, and legislation amending the Act is pending; and

(7) In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S.A. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A MRSA § 4356, be it ordained by the Municipality as follows:

Section 1. Moratorium. The Municipality does hereby declare a moratorium on all retail recreational marijuana activity, and the location, operation or licensing of any and all “Retail Marijuana Social Clubs” and “Retail Marijuana Establishments,” as defined in 7 M.R.S.A. chapter 417, including but not limited to, retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities within the municipality.

No person or organization shall engage in any retail recreational marijuana activity or develop or operate a Retail Marijuana Establishment or Retail Marijuana Social Club within the Municipality on or after the effective date of this Ordinance. During the time this moratorium ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a Retail Marijuana Establishment, Retail Marijuana Social Club or retail recreational marijuana activities.

Section 2. Pending Proceedings. Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail recreational marijuana activity and Retail Marijuana Establishments or Retail Marijuana Social Clubs for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

Section 3. Medical Marijuana Act. This Ordinance will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications.

Section 4. Conflicts/Savings Clause. Any provisions of the Municipality’s ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 5. Violations. If any retail recreational marijuana activity is conducted, or Retail Marijuana Establishment or Retail Marijuana Social Club is established, in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Municipality shall be entitled to all rights available to it pursuant to 30-A M.R.S.A. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations.

Section 6. Effective Date. By order of the town council, this Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever shall first occur.

First Reading: April 2, 2018

Second Reading: Waived on April 2, 2018

By Order of the Town Council Ordinance effective immediately – April 2, 2018

This moratorium Ordinance must be reviewed prior to September 29, 2018

This Ordinance was reviewed by the Town Council and an authorized extension of this ordinance was approved on September 10, 2018 for 180 from September 29, 2018.

ORDINANCE

Article #60

Mass Gatherings

I. Authority

This ordinance is adopted pursuant to the Home Rule powers under the Maine Constitution and 30-A M.R.S.A. Sec. 3001.

II. Purpose

The Town of Winthrop recognizes the desirability of certain outdoor events, including exhibitions, festivals, music concerts, and fairs, and thereby ordains the following to protect the general welfare and promote public health and safety by addressing issues arising therefrom, such as traffic congestion, crowd control, health and sanitation, compliance with alcohol and drug laws, and protection of public and private property.

III. Exemptions

The provisions of this chapter shall not apply to:

- A. Events held or sponsored by the Town of Winthrop.
- B. Public school functions involving student population and staff, and held on school property.

IV. Definitions

- A. Assembly Area – that portion of the premises on which the mass gathering is held within which persons in attendance are expected to sit, stand, or otherwise congregate.
- B. Mass Gathering, Minor – any outdoor gathering, pageant, amusement show, exhibition, festival, theatrical performance, or other special event held outdoors, either on land or on water, with the intent to attract at least five hundred (500) persons, but fewer than one thousand (1,000) persons at any time in a single assembly area.
- C. Mass Gathering, Major – any outdoor gathering, pageant, amusement show, exhibition, festival, theatrical performance, or other special event held outdoors, either on land or on water, with the intent to attract at least one thousand (1,000) persons at any time in a single assembly area.

- D. Not-for-Profit Organization – a religious, charitable or benevolent association or organization which is registered with the State of Maine and the Internal Revenue Service and holds a valid tax-exempt certificate.
- E. Operator – the person responsible for the mass gathering.
- F. Performance Guarantee – an irrevocable letter of credit from a banking institution authorized to do business in Maine, cash escrow, or other financial guarantee acceptable to the Town Manager and in the form approved by the Town Attorney as to form, sufficiency, manner of execution and surety in an amount set by the Town Manager.
- G. Person – any natural person, sole proprietor, partnership, corporation or other entity.
- H. Private School – school operated by an agency, organization, or institution other than the Town, any other municipality, the State of Maine, the United States government or any agency or instrumentality thereof.
- I. Public Costs – those costs incurred by the Town in connection with a mass gathering which would not be incurred by the Town if the mass gathering were not held.
- J. Public School – school operated and governed by Winthrop Public Schools and/or the State of Maine.
- K. Town – the Town of Winthrop.
- L. Town Council – The Town Council of the Town of Winthrop.

V. License required; Fee and procedure

- A. No person shall sponsor, promote, operate or hold any mass gathering, without first procuring a license from the Town.
 - 1. Licenses for minor mass gatherings shall require a license issued by the Town Manager according to the procedure contained herein, except those provisions applicable to major mass gatherings only. Appeals from a denial of a minor mass gathering application may be made in writing to the Town Council, and must be filed with the Town Clerk within five (5) working days of the date of the denial.
 - 2. Licenses for major mass gatherings shall require a license issued by the Town Council according to the procedure contained herein.
- B. The licensing procedure will be administered in the following manner:
 - 1. Any person seeking a mass gathering license shall be provided a copy of this ordinance upon request.
 - 2. The person(s) seeking a license must file a completed application form with the Town Clerk not less than seventy-five (75) days before the proposed event.

3. Applications for mass gathering licenses shall be acted upon by the Town Manager or Town Council, as appropriate, not less than thirty (30) days before the proposed event.
4. No licenses shall be issued for events that would violate the Winthrop Land Use Ordinance or any other town ordinance or rule.
5. Application fees shall be due when the application is filed, shall not be refundable and shall be as follows:
 - a. Not-for-profit organizations applying for a minor or major mass gathering license shall pay an application fee of one dollar (\$1)
 - b. Individuals and for-profit organizations applying for a minor mass gathering license shall pay an application fee of one hundred dollars (\$100).
 - c. Individuals and for-profit organizations applying for a major mass gathering license shall pay an application fee of two hundred fifty dollars (\$250).
6. The application must include:
 - a. A letter of authorization or written permission from the property owner allowing use of the property, unless the property is owned by the applicant.
 - b. A contract with a refuse collection company or other reasonable plan for removal of trash; and
 - c. Proof of applicant's liability insurance in the amount of one Million dollars (\$1,000,000).
7. Within five (5) working days of receipt of an application, the Town Clerk shall forward a copy of the application to the Town Manager, Police Chief, Fire Chief, EMS Chief, Public Works Director, and Code Enforcement Officer. For a major mass gathering application, the Town Clerk shall schedule a public hearing before the Town Council.
8. The Town Manager shall issue a license for a minor mass gathering unless the issuance of the license would be detrimental to public health, safety and welfare or would violate state law or town ordinances or regulations.

9. Before a license can be issued for a major mass gathering, the Town Council shall hold a public hearing to review the application and determine whether to approve the license application. The Town Council shall issue a license for a major mass gathering unless the issuance of the license would be detrimental to public health, safety and welfare or would violate state law or town ordinances or regulations.
10. In accordance with the guidelines set forth in Attachment A to this Ordinance, the Town Manager or Town Council where appropriate may impose conditions on a license to safeguard the public interest. Such conditions may include, but are not limited to requiring the applicant to:
 - a. Post a performance guarantee/bond in an amount reasonably necessary to ensure prompt clean-up of the grounds and payment of damages to public or private property in the area of the event. The Town shall promptly release the performance guarantee if the operator pays all clean-up and public costs within ten (10) working days after the mass gathering.
 - b. Hire Winthrop police officers (one certified officer for each 200 people in attendance), other security, and fire/rescue personnel as necessary, at the expense of the licensee. The Police Department and Fire Chief will be notified before the proposed event whether additional personnel will be needed.
 - c. Demonstrate, to the satisfaction of the Chief of Police, by means of a written, descriptive plan that facilities will be provided at the proposed site to protect the health of attendees, including:
 - i. Waste disposal;
 - ii. Sanitary facilities;
 - ii. Fire fighting, rescue and police personnel equipment
 - iii. Water supplies; and
 - iv. Communication system.
 - d. Demonstrate, to the satisfaction of the Chief of Police, by means of a written descriptive plan, that adequate parking spaces will be available.
 - e. Provide a plan to the Chief of Police showing how crowd security and police protection of private property will be accomplished.

- f. Provide a plan, to the satisfaction of the Chief of Police, for controlling traffic, which shall contain as appropriate:
 - i. A description of routes which persons attending are likely to take;
 - ii. Methods to be used to publicize alternative routes;
 - iii. The number of persons who will be present to direct traffic at the site both before and after the event, and their locations; and
 - iv. A description of what means will be available to remove disabled vehicles from locations under the control of the operator, if such vehicles would prevent the free flow of traffic.
- g. Provide a plan, to the satisfaction of the Chief of Police, for evacuating the site in the event of a natural disaster or other civil emergency.

VI. Enforcement, Penalty, Assignability

The Chief of Police (COP) is authorized to enforce this Ordinance. The Operator of the licensed event shall permit the COP reasonable access to the event or event property for inspection as deemed necessary by the COP. Violation of the Ordinance constitutes a civil violation punishable by a civil penalty of five hundred dollars (\$500) for each violation. Each day such violation continues shall constitute a separate offense. Licenses issued under this ordinance are not transferable or assignable, without prior approval of the Town Council.

Date Adopted: 10/9/2013 Attest: Lauri A. Carson
Town Clerk

1st Reading 9/9/2013
2nd Reading Waived

SEAL

APPENDIX A: GUIDELINES

The Town Manager or Town Council, as appropriate, shall use the following Guidelines in making a determination as to whether to issue a mass gathering license. The Town Manager and Town Council may waive any standard or requirement set forth in these Guidelines and may impose additional requirements as deemed necessary in order to protect public health, safety and welfare.

A. Water Supply

1. Where water is not available under pressure, and non-water carriage toilets are used; at least three (3) gallons of water per person per day shall be provided for drinking and washing purposes.

B. Refuse Disposal

1. One fifty (50) gallon refuse container or its equivalent shall be provided for each one hundred (100) persons anticipated.
2. All refuse shall be collected from the mass gathering area at least once every twelve (12) hours of the gathering and disposed of in an approved manner.
3. The mass gathering area and immediate surrounding property shall be cleaned of refuse within twenty-four (24) hours following the mass gathering.
4. Areas where vehicles are parked shall have rubbish disposal facilities one (1) for every twenty-five (25) vehicles.

C. Grounds

1. Illumination (adequate lighting) shall be provided for the assembly area at night beginning one-half (1/2) hour before sunset to protect the safety of the persons at the outdoor event. The lighting shall not unreasonably reflect beyond the assembly area boundaries unless adjacent properties are uninhabited.
2. Light level intensities shall be at least five (5) foot candles.
3. There shall be at least twenty (20) square feet of assembly area per person at the site for daytime gatherings and at least forty (40) square feet of assembly area per person for overnight gatherings.

D. Roads and Parking Space

1. Width of service roads shall be at least twelve (12) feet for one (1) traffic lane, twenty-four (24) feet for two (2) traffic lanes and seven (7) feet shall be added for a parallel parking lane.
2. There shall be at least one (1) parking space for every four (4) persons; the density should not exceed one hundred (100) passenger cars or thirty (30) buses per usable acre.
3. Internal and external traffic and security control shall meet requirements of the applicable State and local law enforcement agencies.

E. Sanitary Facilities

1. Toilets shall be provided at a rate of one (1) for each one hundred fifty (150) persons.
2. Urinals and sani-stands may be substituted for up to one-third (1/3) of the required number of toilets. Twenty-four inches (24") of trough urinals in a men's room shall be considered the equivalent of one (1) urinal or toilet.
3. Sanitary facilities shall be conveniently accessible and well identified.
4. Each toilet shall have a continuous supply of toilet paper.
5. Service buildings or rooms housing necessary plumbing fixtures shall be constructed of easily cleaned, non-absorbent materials.
6. Clearly marked separate service buildings or rooms containing sanitary facilities, shall be provided for each sex. Each toilet room shall be provided with a self-closing door to ensure privacy, and the entrance shall be screened so that the interior is not visible from the outside.
7. Water points or drinking fountains shall be well identified and conveniently accessible.
8. Common drinking cups shall not be used.

F. Medical Facilities

1. Emergency medical services shall be provided under the supervision of a licensed physician.
2. A first aid building or tent with adequate medical supplies shall be available.
3. Emergency first aid vehicles shall be available on site during the entire time of the mass gathering.
4. A telephone or other two-way electronic communication device shall be available.
5. The operator of the mass gathering shall contact area hospitals and advise them that a mass gathering will be held and the approximate number of people attending.

G. Safety

1. The electrical system or electrical equipment servicing the mass gathering shall comply with any and all applicable state standards and regulations (Title 32, Chapter 17 M.R.S.A.)
2. Fire prevention materials such as nonflammable drapes, partitions, etc., shall be used wherever possible.
3. At least one fire fighter with communication equipment to call in fire suppression equipment shall be present at the site of the mass gathering.

H. Noise Control

1. The noise generated by the mass gathering shall not carry unreasonably beyond the boundaries of the mass gathering area.
2. Noise as the result of the mass gathering shall cease at a designated time established by the Town Manager, or the Winthrop Town Council.

ORDINANCE

Article 46 – As Amended 2013

Unnecessary Noise

§ 1 - Findings and Purpose

The Winthrop Town Council finds that controlling excessive noise as provided herein is necessary to promote the health, welfare, and safety of the citizens of the Town of Winthrop. It is the purpose of this Ordinance to prevent any person from making, continuing, or causing noise that unreasonably interferes with the comfort, health, or safety of others within the Town of Winthrop.

§ 2 - Prohibition

- A. It shall be unlawful for any person in a public place to intentionally or recklessly cause annoyance to others by intentionally making loud and unreasonable noises after having been ordered by a law enforcement officer to cease the noise or similar such noises within the last six months.
- B. It shall be unlawful for any person in a private place to make loud and unreasonable noise after having been ordered by a law enforcement officer to cease the noise or similar such noise within the past six months that can be heard by another person who is in a public place or in another private place.
- C. For the purposes of this section, the term “noise” shall include, but is not limited to:
 - i. sound created by radios or other electronic or mechanical devices capable of amplifying or projecting ambient noise, including such devices operated within motor vehicles;
 - ii. sound created in connection with loading and unloading commercial vehicles between the hours of 10:00 p.m. and 6:00 a.m.;
 - iii. sound created from construction activities between the hours of 10:00 p.m. and 6:00 a.m.;
 - iv. sound created from timber harvesting activities between the hours of 10:00 p.m. and 6:00 a.m.;
 - v. sound created by recreational vehicles, including all-terrain vehicles, snowmobiles, motorbikes, watercraft, and other such vehicles between the hours of 10:00 p.m. and 6:00 a.m.;
 - vi. sound created by a dynamic braking device or any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, which results in the excessive, loud, unusual or explosive noise from such vehicle between the hours of 10:00 p.m. and 6:00 a.m. in the following locations:
 - a. Rte 133 between the intersections of Rte. 133 and Squire Court, to the intersection of Rte. 133 and Summer Street.
 - b. Rte. 202 between the intersections of Rte. 202 and Main Street to the intersection of Rte. 202 and Royal Street.

c. Rte. 202 between the intersections of Rte. 202 and Little Cobbossee Ave., to the intersection of Rte. 202 and Island Park Road

It shall be an affirmative defense that the use of such device(s) was used in an emergency situation to avoid imminent danger to the safety of a person or property as determined by the police officer.

- vii. sound created by a motor vehicle operated on any public or private way which results in excessive, loud or unusual noise as the result of the tires of said vehicle spinning on dry pavement, loud engine noise, or as the result of cutting out or modifying the exhaust system from its original design.
- viii. sound created by a loud report such as from fireworks or from a gunshot or explosive, between the hours of 10:00 p.m. and 6:00 a.m. unless otherwise exempted by State law or the provisions in the fireworks ordinance.

§ 3 - Exceptions

The following are exempt from the provisions of § 2:

- A. Federal, state, and local governmental activities, whether conducted by the governmental agency or by a private contractor acting on the government agency's behalf, including, but not limited to, activities of police, fire, rescue, schools, and public works;
- B. Activities of utility agencies, including, but not limited to, vehicles and activities for the provision of water, electricity, telephone service, and sewer service; and
- C. Public assemblies, parades, performances or athletic events for which a permit is required and has been issued by the Town of Winthrop. Any such noise upon the issuance of such permit shall cease at the time as indicated on the permit.

§ 4 - Violations & Penalties

- A. Any member of the Winthrop Police Department is authorized to enforce this Chapter upon complaint or upon the officer's own observation of a violation in progress.
- B. A person who is a registered owner of a vehicle at the time that vehicle is involved in a violation of this chapter commits a civil violation. The owner of a business which is involved in a violation of this chapter commits a civil violation.
- C. Any person who violates this Chapter shall, upon conviction, be fined a civil penalty of not less than \$50 and not more than \$250 for each separate violation. If the Town is the prevailing party to an enforcement action, it shall be entitled to attorney's fees and associated costs unless extraordinary circumstances make such an award unjust.

§ 5 - Definitions

As used in this Chapter, unless the context otherwise indicates, the following terms have the following meanings:

- A. “Public place” means a place to which the public at large or a substantial group has access, including but not limited to:
 - i. Public ways; public way means any public highway or sidewalk, private way laid out under authority of statute, way dedicated to public use, way upon which the public has a right of access or has access as invitees or licensees, or way under the control of park commissioners or a body having like powers;
 - ii. Schools and government-owned custodial facilities; and
 - iii. The lobbies, hallways, lavatories, toilets and basement portions of apartment houses, motels, public buildings and transportation terminals.
- B. “Private place” means any place that is not a public place.

1st Reading 12/11/2012

2nd Reading 2/4/2013 as revised

Adopted as Amended: 3/6/2013

.ORDINANCE #17

AN ORDINANCE RELATING TO TRAFFIC AND PARKING CONTROL

SECTION 1. UNLAWFUL PARKING

No person shall allow, permit, or suffer any vehicle, motor vehicle or self-propelled machinery under his control, or registered in his name to be in violation of any of the following provisions of this Ordinance upon or in any street, way, highway, road, parking area of public place under this control of the town of Winthrop so that:

- a. It in any manner blocks a public way, a private driveway or a pedestrian crosswalk.
- b. It is double parked, so-called, except by the verbal permission of the Chief of Police or one of his duly authorized police officers while on traffic control, or except commercial vehicles for the purpose of delivery, pickup or performing other necessary services, but only in such a manner as shall not impede the passage of other vehicles.
- c. Any part of said vehicle is in, over or on the areas of the sidewalk, or any adjoining or adjacent marked parking space.
- d. It obstructs or impedes the passing of other vehicles.
- e. It is within seven (7) feet of any hydrant of the Winthrop Water District.
- f. It is within twenty (20) feet of any crosswalk.
- g. It is within twenty (20) feet of the intersection of any street line.
- h. It is within any area or against any curb, which is painted yellow.
- i. It is within any alley, drive or area so designated a "fire lane".

SECTION 1A. CROSSWALKS

Crosswalks shall be maintained in the following locations:

1. Main Street
 - a. Westerly side of Highland Avenue intersection.
 - b. Easterly side of Hanson Street intersection.
 - c. Approximately three (3) feet west of Clark Street intersection.
 - d. Approximately four (4) feet east of Mechanic Street intersection.
 - e. Easterly side of Union Street intersection.
 - f. Approximately eighteen (18) feet east of Morton Street intersection.

- g. Approximately three hundred eight (308) feet east of Royal Street intersection.
- 2. Western Avenue
 - a. Approximately three (3) feet north of High Street intersection.
- 3. Bowdoin Street
 - a. Parallel to Main Street intersection.
 - b. Approximately two hundred three (203) feet west of Green Street intersection.
 - c. Southerly side parallel to summer Street intersection.
 - d. Northerly side parallel to Summer Street intersection
- 4. Highland Avenue
 - a. Approximately twenty (20) feet south of and parallel to Main Street intersection.
 - b. Northerly side of Pleasant Street intersection.
- 5. Outer Highland Avenue
 - a. Approximately seventy (70) feet south of Route 202 intersection.
- 6. Route 202
 - a. Approximately ten (10) feet west of Highland Avenue intersection.
- 7. Union Street
 - a. Parallel to Main Street intersection.
- 8. Hanson Street
 - a. Parallel to Main Street intersection.
- 9. Summer Street
 - a. Westerly side parallel to Bowdoin Street intersection.
 - b. Easterly side parallel to Bowdoin Street Intersection.
- 10. Clark Street
 - a. Parallel to Main Street intersection.
- 11. Mechanic Street
 - a. Parallel to Main Street intersection.
- 12. Morton Street
 - a. Parallel to Main Street intersection.

SECTION 2A.

NO PARKING ZONES

No person shall allow, permit, or suffer any vehicle, motor vehicle or self-propelled machinery under his control, or registered in his name to be parked in any of the following designated “NO PARKING ZONES”:

- a. Beale Street
 - Either side from Hanson Street to Greenwood Avenue
- b. Bowdoin Street
 - Westerly side from Central Street to Main Street.
 - Westerly side from Highway Bridge to Memorial Drive from 2 AM to 6 AM.
 - Easterly side from Highway Bridge to the Legion parking lot.
 - Easterly side from CMP Pole #14 to Green Street from 2 AM to 6 PM.
 - Easterly side from Main Street to a point 20’ southerly of CST Pole #1-1.
- c. Green Street
 - either side from Main Street to Bowdoin Street
- d. Greenwood Avenue
 - Easterly side from Main Street to CMP Pole #15, a distance of approx. 215’.
 - Westerly side from Main Street to Beale Street, a distance of approx. 328’.
- e. Hanson Street
 - Easterly side from Main Street to Knickerbocker Road.
 - Westerly side from Main Street to the intersection of Beale Street.
- f. High Street
 - either side between CMP Co. Pole #14/12 and CMP Co. Pole #17/11, a distance of approx. 362’
 - . ,
- g. Highland Avenue
 - easterly side from Main Street a distance of approximately 346’
 - easterly side from the southerly edge of the student from off/pickup area, southerly, a distance of approximately 105’
 - westerly side from Main Street a distance of approximately 151’
 - westerly side from the southerly edge of the original Grade School parking spaces (8), a distance of approximately 80.5’
 - westerly side from the southerly edge of the student drop off/pickup area. Southerly, a distance of approximately 51.5’
 - westerly side from the southerly edge of the current High School parking spaces (6), southerly, a distance of approximately 97’

- h. Island Park Road
 - On the westerly side from Island Park Bridge, so-called, to the intersection of the Old Augusta Road, so-called, a distance of 322' northerly on Island Park road, so-called; on the easterly side from Island Park Bridge, so-called, a distance of 186' northerly on Island Park Road, so-called; also along the southerly side of the Old Augusta road, so-called, from the northerly end of the intersection with Route 202.
- i. Main Street
 - Northerly side from Greenwood Avenue easterly for a distance of 117'.
 - northerly side from the easterly edge of Bowdoin Street easterly, a distance of approximately 40'
 - Area designated as a Fire Lane adjacent to and parallel to the fire department building, specifically in front of the garage bay doors. (Except of on-duty firefighters, if necessary, where it will not impede emergency vehicles.)
- j. Mechanic Row
 - Either side within 75' of the intersection with Maine Street.
- k. Pitts Street
 - Either side from Central Streete to the street's end at the property line, Winthrop Property Tax Map #31, Lot #221.
- l. Royal Street
 - westerly side from Main Street to Rte 202
 - easterly side from CMP Pole #10 to Rte 202
- m. Union Street
 - Westerly side from the municipal parking lot (so-called) to Summer Street.
- n. Western Avenue
 - Westerly side from CMP Co. Pole #216 northerly to CMP Co. Pole #218 a distance of approx. 288'.
- o. Town Hall Lane (so-called)
 - Both sides from Main Street to the southerly side of the town Hall building except on the easterly side directly across from the town Hall building, which shall be 15 minute public parking from 8:00 AM. to 5:00 PM., Monday through Friday, except northerly of the building shall be reserved for police vehicles.
- p. Norcross Point (so-called)
 - Between the hours of 10:00 PM to 4 AM, except when authorized by the Chief of Police.
 - Either side of the road leading from Bowdoin Street to Norcross Point.

- q. Narrows Pond Road
 - On the northerly side (at the causeway, so-called) beginning at a point 20' easterly of CMP Co. Pole #39 extending westerly to a point 30' easterly of CMP Co. Pole #38, a distance of approx. 196'.
 - On the southerly side (at the causeway, so-called) beginning at a point 20' easterly of CMP Co. Pole #39 extending westerly a distance of approx. 420'.
- r. Charles Street
 - On the sidewalk side starting at CMP Co. Pole #10 and extending southerly for a distance of 1,120 feet.

SECTION 2B STUDENT DROP OFF, PICKUP ZONE

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his or her control, or registered in his or her name to be parked and/or left unattended in any designated Student Drop Off, Pickup Zone between the hours of 7:00 AM and 3:30 PM on days school is in session. For purposes of this section designated areas are described below.

- a. Highland Avenue
 - easterly side, beginning at a point approximately 346' from Main Street, a distance of 88' southerly.
 - westerly side, beginning at a point approximately 393' from Main Street, a distance of 70' southerly.

SECTION 3. ONE HOUR PARKING ZONE

No person shall allow or permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name to be parked for a period of time longer than one (1) hour during times specified.

- a. Between the hours of 8:00 AM and 6:00 PM Monday, Tuesday, Wednesday, Thursday and Saturday and between the hours of 8:00 AM and 9:00 PM on Friday; Sunday and legal holidays excluded:
 - 1. Main Street –
 - Southerly side from Winthrop Post Office to the Maple Cemetery Drive; northerly side from the easterly corner of the 48 Main Street building to a point 40' easterly of the easterly edge of Bowdoin Street.
 - 2. Union Street –
 - Easterly side from the municipal parking lot (so-called) to Summer Street.

SECTION 4. TWO HOUR PARKING ZONE

No person shall allow or permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name to be parked for a period of time longer than two (2) hours during times and areas specified:

- a. Between the hours 9:00 AM and 6:00 PM Monday through and including Saturday, Sunday and legal holidays excluded.
 1. Bowdoin Street -
 - Westerly side from Central Street to Summer Street, easterly side from Summer Street to a point 20' southerly of CST Pole #1-1.
- b. Between the hours of 8:00 AM and 6:00 PM Monday, Tuesday, Wednesday, Thursday and Saturday, and between the hours of 8:00 AM and 9:00 PM Friday, Sunday and legal holidays excluded:
 1. Main Street -
 - Northerly side from Smith's Service Station to Greenwood Avenue; southerly side from Mechanic Row to Highland Avenue.
 2. Municipal Parking Lot –
 - Northerly from Main Street on Union Street all parking spaces inclusive.

SECTION 4A. 15 MINUTE PARKING ZONE

- a. Two (2) spaces being the first two parking spaces on the south side of Maine Street adjacent to U.S. Post Office.
- b. Four spaces on the easterly side of Town hall Lane adjacent to the municipal building between the hours of 8:00 AM and 5:00 PM, Monday through Friday, holidays excluded.
- c. Six (6) spaces on the westerly side of Highland Avenue adjacent to the Grade School building between the hours of 7:00 AM and 3:30 PM on days school is in session.
- d. Seven (7) spaces on the westerly side of Highland Avenue between the entrance and exit of the High School semicircular drive between the hours of 7:00 AM and 3:30 PM on days school is in session.

SECTION 5. DIAGONAL PARKING AREAS

The following areas are hereby designated diagonal parking only:

- a. Main Street –
 - Northerly side from CMP Pole #36 to the easterly corner of the 48 Main Street building.

Entering diagonal parking on the northerly side of Main Street shall be from an easterly direction only. Departing diagonal parking on the northerly side of Main Street shall be in a westerly direction only.

All other parking in the Town of Winthrop upon lanes, streets, ways, highways and roads shall be parallel parking only, unless otherwise authorized in this Ordinance, and such parking shall be as closely as possible to the curb or ditch.

SECTION 6. WINTER PARKING RESTRICTIONS

November 1st to April 15th inclusive.

- a. No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name to stand or be parked in any public street or way from November 1st to April 15th inclusive of each year between the hours of 12:00 AM and 6:00 AM for a period of more than one (1) hour, but in no event shall standing or parking between the hours of 12:00 AM and 6:00 AM be legal if it interferes with or hinders the plowing, loading or removal of snow from such public street or way.
- b. No person shall park or leave standing any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name, upon a public way within the limits of the Town of Winthrop in such a manner as to interfere with or hinder the plowing or removal of snow at any time. Any municipal officer may cause any vehicle parked in violation of this Ordinance to be removed from the way and placed in a suitable parking place at the expense of the person having control of such vehicle or the owner of such vehicle.

Neither the Town of Winthrop nor its agent shall be liable for any damage that may be caused by such removal.

- c. No person shall allow permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name, to stand or be parked in the municipal parking lot (so-called) in violation of this section.

SECTION 7. EMERGENCY VEHICLE – Repealed – 11/86

SECTION 8. ONE WAY STREETS

No person shall permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name to be operated on the following streets or public ways except in the direction indicated below:

- a. Beale Street -
 - Westerly from Greenwood Avenue to Hanson Street.
- b. Green Street –
 - Northerly from Main Street to Bowdoin Street.
- c. Union Street -
 - Northerly from the municipal parking lot (so-called) to Summer Street.

SECTION 9. MOTOR VEHICLES PROHIBITED FROM SIDEWALKS

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name to be operated upon any public sidewalk within the limits of the Town of Winthrop, excluding the direct crossing of same.

SECTION 10. COMMERCIAL VEHICLES EXCLUDED

Commercial vehicles for the purpose of delivery, pickup, loading or unloading or performing other necessary services, may stop, stand or park notwithstanding the provision of this Ordinance, but only in such a manner as shall not to impede the passage of other vehicles.

No person shall operate any truck in excess of registered weight of 15,000 lbs, G.V.W. capacity on any of the below names streets at any time, except for fire trucks and highway department vehicles or unless such truck is going to make a pickup, delivery or stop for emergency service purposes.

- a. Main Street – from Route 202 to Western Avenue
- b. Highland Avenue – from Route 202 to Main Street.
- c. Royal Street – from Route 202 to Main Street.
- d. Central Street – from Lake Street to Bowdoin Street.
- e. Summer Street – from Lake Street to Union Street.
- f. Union Street – from Main Street to Summer Street.

SECTION 11. STOP AND YIELD INTERSECTIONS

- a. Every driver of a vehicle, motor vehicle or self-propelled machinery approaching a stop intersection indicated by a red traffic light or sign, shall stop on the near side of the intersection at the point nearest the

intersection roadway where the driver has a view to approaching traffic on the intersection roadway before entering the intersection.

Stop signs shall be erected and maintained in accordance with the following schedule on the first named street at its intersection with the second named street.

<u>FIRST NAMED</u>	<u>SECOND NAMED</u>
1. Annabessacook Drive	1. Annabessacook Road
2. Beale Street	2. Hanson Street
3. Central Street	3. Bowdoin Street
4. Forest Avenue	4. Knickerbocker Road
5. Forest Avenue	5. Memorial Drive
6. Green Street	6. Bowdoin Street
7. Hanson Street	7. Knickerbocker Road
8. Hillside Avenue	8. High Street
9. Knickerbocker Road	9. Bowdoin Street
10. Norcross Point (so-called)	10. Bowdoin Street
11. Summer St. (easterly)	11. Bowdoin Street
12. Taylor Street	12. Pleasant Street
13. Summer St. (westerly)	13. Bowdoin Street
14. Soper road	14. Wilson Pond road
15. Pennwood Road	15. Forest Avenue
16. Lambert Street	16. High Street
17. Beechwood Road	17. Bearce Road
18. Beechwood Drive	18. Memorial Drive
19. Greenwood Terrace	19. Greenwood Avenue
20. Greenwood Park	20. Greenwood Avenue
21. Greenwood Lane	21. Greenwood Avenue
22. Union Street	22. Summer Street
23. Bowdoin Street (northerly)	23. Summer Street
24. Bowdoin Street (southerly)	24. Summer Street
25. Nottingham Road	25. Sturtevant Hill Road
26. Apple Farm Crossing	26. Old Lewiston Road
27. Mayflower Way	27. Alden Road

- b. Every driver of a vehicle, motor vehicle or self-propelled machinery approaching a yield intersection indicated by a yellow traffic light or yield sign, shall proceed to the point nearest the intersection roadway where the driver has a view to approaching traffic on the intersection roadway before proceeding with caution.

Yield signs shall be erected and maintained in accordance with the following schedule on the first named street at its intersection with the second named street.

<u>FIRST NAMED</u>	<u>SECOND NAMED</u>
1. Narrows Pond Road	1. Outer Highland Avenue
2. Beechwood Drive	2. Beechwood Road
3. Butters Hill Terrace	3. Lakeshore Drive
4. Middle School (South Entrance Road)	4. Charles Street
5. Robin Hood Road	5. Nottingham Road (North End)
6. Bearce Road	6. Memorial Drive

c. All town road and/or streets entering State or State Aid highways where yield signs are erected and maintained by the State of Maine Department of Transportation are covered by that department's listing.

SECTION 12. TOWN MANAGER'S EMERGENCY POWERS

The Town Manager is hereby authorized to:

- a. Erect signs indicating no parking upon any street or way when such parking would, in his opinion, interfere with traffic or create a hazardous condition on a temporary basis.
- b. Mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with traffic ordinance of the Town of Winthrop.
- c. Declare a "winter parking ban" as may be deemed appropriate when such parking would, in his opinion, interfere with or hinder the plowing or removal of snow. Any violation of the parking ban instituted by the Town Manager, under this section, shall be treated as a violation under Section 6 of this ordinance.

SECTION 13. SPEED LIMITS

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control to be operated at a rate of speed greater than that indicated in the following areas:

- a. Norcross Point (so-called)
 1. Road leading from Bowdoin Street to Norcross Point (so-called) (Approximately 100') 10 miles per hour.
 2. 10 miles per hour all other areas.
- b. Municipal Parking Lot (so-called)
 1. 10 miles per hour

SECTION 14. VEHICLE REMOVAL

Any vehicle stopped, standing or parked in violation of Sections 1,2,5,6, or 21 may be removed by or under the direction of or at the request of the Chief of Police of the town of Winthrop, or one of his authorized officers to a garage or storage place within the limits of the Town of Winthrop and impounded therein. Such police officers may use such force as may be necessary to enter such vehicle and cause the same to be placed in a condition to be moved and may employ any reputable person engaged in the business of towing and storing vehicles for such purposes.

Notwithstanding any language herein contained the removal or storage of a vehicle pursuant to this ordinance and the payment of the charges specified herein no way relieves or prevents prosecution for the violations of any provision of the Ordinance of the Town of Winthrop.

The Chief of Police of the Town of Winthrop, or one of his duly authorized officers shall make every effort to notify the owner of any such vehicle, as promptly as possible, of its removal from the streets, ways, or public places under the control of the Town of Winthrop and as soon as possible a written notice that such vehicle has been impounded shall be sent by the Chief of Police to the owner at his last known address, as may be shown by the records of the Secretary of State or the Registry of Motor Vehicles. If the owner is unknown, the Chief of Police shall cause notice of such impound to be published in any newspaper printed in Kennebec County, giving the registration number (if known), the vehicle identification number, and the name, type and year of said vehicle.

SECTION 15. LIABILITY OF VEHICLE OWNER

Before the owner of such vehicle or his representative may remove it from the possession of the person towing it or storing it, he shall:

- a. Furnish satisfactory evidence of his identity and of his ownership of said vehicle to the chief of Police or his duly authorized officer, and to the person having possession of said vehicle.
- b. Pay to the person having possession of said vehicle all reasonable charges for the towing and the storage of said vehicle.
- c. Sign a receipt for said vehicle.

SECTION 16. PENALTIES

Whoever violates any of the provisions of this Ordinance shall be fined not more than Twenty-five Dollars (\$25.00) for each offense, except that the fine for violations of Section 21 shall be one hundred dollars (\$100.00) for each offense, and except that violations of Section 3 and 4 upon issuance of a parking tag may pay a token fine of Two

Dollars (\$2.00) within five (5) calendar days of such violation and prior to the issuance of a court summons; and violations of Sections 1,2,5 and 6 may pay a token fine of Five dollars (\$5.00) within five (5) calendar days of such violation and prior to the issuance of a court summons after issuance of a parking tag; and except that violators of Section 21 of this Ordinance, after the issuance of a court summons, may pay to the town of Winthrop a token fine of Fifty dollars (\$50.00). All fines assessed and collected pursuant to this Ordinance shall be payable to the Town of Winthrop.

SECTION 17. ADMINISTRATION

The Chief of Police of the Town of Winthrop shall be responsible for the administration and enforcement of this Ordinance and shall maintain written records of the issuance of all parking tags and fines collected. The Chief of Police shall turn over to the Town Treasurer all fines received for the violations of this Ordinance each week.

SECTION 18. BICYCLES; SKATEBOARDS; ROLLER SKATES; SCOOTERS Amended

No person shall ride a bicycle, moped, scooter, skateboard, roller skates, sled, motorized bicycle or motorized tricycle upon any public property: to include municipal parking lots and upon the sidewalks of the following street(s):

- a) Main Street from Morton Street to Clark Street during business hours.

Notwithstanding, the provisions of this Section any person who rides a bicycle, moped, scooter, skateboard, roller skates, sled, motorized bicycle or motorized tricycle upon any municipal parking lot for the purpose of patronizing an adjoining business shall not be deemed to have violated this Section.

Any person who violates Section 18 shall, upon adjudication, be punished by a fine of not less than \$50.00 or more than \$100.00.

SECTION 18- 1 CLINGING TO MOVING VEHICLES

No person riding upon any bicycle, moped, scooter, skateboard, roller skates, sled, toy vehicle, motorized bicycle or motorized tricycle shall attach himself or herself to any moving vehicle upon any road way.

Any person who violates Section 18-1 shall, upon adjudication, be punished by a fine of not less than \$50.00 or more than \$100.00.

SECTION 18-2 TRUE NAMES

It shall be unlawful for any person when given notice by a police officer to appear to answer for any offense against any provision of this ordinance to give other than his or her true name, date of birth and true place of residence.

Any person who violates Section 18-2 shall, upon adjudication, be punished by a fine of not less than \$50.00 or more than \$250.00.

SECTION 18-3 SKATEBOARD AND ROLLER SKATES

Any person riding a skateboard or roller skates on any public way shall ride the same in a careful and prudent manner, keeping to the right having due regard to the traffic and of any other conditions existing.

Any police officer, or other duly authorized law enforcement officer, within the Town of Winthrop, when satisfied that a person over the age of (18) years has ridden a skateboard or roller skates in violation of the provisions of Section 18-3 may enforce this section in accordance with M.R.S.A. Title 17-A section 505, Obstructing Public Ways.

SECTION 18-4 JUVENILE PENALTIES

The Chief of Police or his designee, when satisfied that a juvenile under the age of (18) years has ridden a bicycle, moped, scooter, skateboard, roller skates, sled, toy vehicle, motorized bicycle or motorized tricycle in violation of any of the provisions of Sections 18, 18-1, or 18-3 may, after first receiving a warning for the violation, impound the bicycle, moped, scooter, skateboard, roller skates, sled, toy vehicle, motorized bicycle, or motorized tricycle for a period not to exceed 5 days for the first offense, for a period not to exceed 10 days for the second offense, and for a period not to exceed 30 days for any subsequent offense.

SECTION 19. DATE OF EFFECT

This Ordinance shall take effect and be in force thirty (30) days after its approval by the Council of the Town of Winthrop and shall supersede all previous traffic and parking control ordinances.

SECTION 20. VALIDITY

Should any section or part thereof, of this Ordinance be held by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 21. HANDICAPPED PARKING SPACES

- a. Owners of privately-owned off-street parking lots who provide handicapped parking spaces in accordance with the requirements of the Maine Human Rights Act, 5 M.R.S.A. ss 4511, et seq. Or other state or federal law shall arrange for private enforcement of handicapped parking restrictions or shall enter into agreements with the Winthrop Police Department for enforcement of handicapped parking restrictions by the Department. An owner of a private off-street parking facility who violates this subsection commits a civil violation for which a forfeiture of not less than one hundred dollars (\$100.00) shall be adjudged.

- b. No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control, or registered in his name, which vehicle or machinery does not bear a special registration plate or placard issued under Title 29 M.R.S.A. ss 252, 252-A or 252-C, or a similar plate or placard issued by another state, to be parked in a public or private parking space clearly marked as a handicapped parking space. Any person who violates this provision commits a civil violation for which a forfeiture of not less than one hundred dollars (\$100.00) shall be adjudged.
- c. For purposes of this Section, “clearly marked” includes painted signs on pavement and/or vertical standing signs which are visible in existing weather conditions, which signs display the international symbol for accessibility.
- d. For purposes of this Section, to “arrange for private enforcement” means to contract with or hire a person or entity to take reasonable and lawful measures to ensure that parking spaces designated for the handicapped are used only for vehicles or machinery which bear a special registration plate or placard issued under Title 29 M.R.S.A. ss 252, 252-A or 252-C or a similar plate or placard issued by another state.
- e. The Chief of the Winthrop Police Department is authorized to enter into agreements with owners of private off-street parking lots to enforce handicapped parking restrictions. Under such agreements, officers of the Winthrop Police Department may ensure that parking spaces designated for the handicapped are used only for vehicles or machinery which bear a special registration plate or placard issued under Title 29 M.R.S.A. ss 252, 252-A or 252-C, or a similar plate or placard issued by another state. Such agreements shall provide that unauthorized vehicles will be ticketed. Such agreements shall further provide that the Winthrop Police Department shall have the right, but not the obligation, to respond to any complaints about improper use of designated handicapped spaces located in privately owned off-street parking lots, whether such complaints are initiated by the owner, its agents, or others, and to monitor use of designated handicapped parking spaces, using available personnel and resources. Such agreements shall further provide that the Winthrop Police Department is not obligated to allocate any particular personnel or resources to the enforcement of restrictions on usage of handicapped parking spaces.
- f. The Chief of the Winthrop Police Department may, with the approval of the Winthrop Town Council, establish a program to deputize Volunteer Parking Enforcement Specialists to enforce handicapped parking restrictions in private lots within the Town of Winthrop pursuant to 30-A M.R.S.A. ss 472-473 and 3009 (D).

- g. Handicap Parking spaces – the following spaces shall be reserved for handicap parking plates:
- one (1) space on the south side of Main Street, in the first space beyond Mechanic's Street and in front of the woolen mill building; and
 -
 - four (4) spaces, being so designated in the rear High School parking lot, south of the gymnasium and overlooking the athletic field; and
 - two (2) space, being so designated in the parking lot adjacent to the entrance of the Middle School; and
 - one (1) space, being the first space closest to Main Street on the easterly side of Town Hall Lane; and
 - one (1) space on the southeasterly corner of the municipal parking lot (so-called); and
 - one (1) space on the northwesterly corner of the municipal parking lot (so-called); and
 - One (1) space on the easterly side of Bowdoin Street in the first space southerly of Summer Street in front of the library building.
 - Two (2) spaces, on the lake side of Bowdoin St., one on both sides of the crosswalk to the beach, spaced at appropriate distances from the crosswalk.
 - Three (3) spaces on the easterly side of the semi-circular drive, directly across from the entrance to the Highland Avenue School facility.
 - One (1) space on the westerly side of Town Hall Lane, being the first full space northerly of the Ambulance facility.

APPROVED April 20, 1976
AMENDED February 5, 1979
AMENDED January 7, 1980
AMENDED October 5, 1991
AMENDED July 1, 1985
AMENDED November 28, 1986
AMENDED September 12, 1988
AMENDED October 13, 1993
AMENDED December 7, 2009

AMENDED June 28, 1979
AMENDED April 2, 1979
AMENDED July 7, 1980
AMENDED August 1, 1983
AMENDED October 6, 1986
AMENDED December 22, 1986
AMENDED June 4, 1990
AMENDED November 6, 1995

AGREEMENT TO ENFORCE HANDICAPPED PARKING REGULATIONS

ON PRIVATE PROPERTY

This Agreement is entered into this _____ day of _____, _____ by and between the Town of Winthrop (the "Town") and _____ (the "Owner") to ensure that handicapped parking spaces located in the parking lot located at _____ (the "Premises") are used only by authorized persons, as follows:

1. Owner hereby authorizes and permits the Winthrop Police Department and/or any deputized Volunteer Parking Enforcement Specialist, if the Winthrop Police Department establishes a volunteer parking enforcement program as authorized by 30-A M.R.S.A. ss 472, 473 and 3009 (D), to enter upon the Premises for the purpose of ensuring that parking spaces designated for the handicapped are used appropriately by handicapped persons. It shall be the responsibility of the Owner to clearly mark handicapped parking spaces by signs painted on the pavement and/or vertical standing signs such that these signs are visible under existing weather conditions. Such signs shall display the international symbol for accessibility.
2. Owner and the Town hereby agree that any vehicle or motorcycle parked in a parking space clearly marked as a handicapped parking space which does not bear a special registration plate or placard issued under 29 M.R.S.A. ss 252, 252-A or 252-C or a similar plate or placard issued by another state, shall be cited for a forfeiture of not less than one hundred dollars (\$100.00), except Those violators, after the issuance of a parking tag, and within five (5) calendar days of such violation, and prior to the issuance of a court summons, may pay to the town of Winthrop a token fine of fifty dollars (\$50.00).
3. The town and its Police department shall have the right, but not the obligation to respond to any complaints about improper use of designated handicapped spaces on the Premises, whether initiated by Owner, its agents or others, and to monitor use of designated handicapped parking spaces, using available personnel and other resources. Nothing in this Agreement shall require the town of its Police Department to allocate any particular personnel or resources to the enforcement of handicapped parking regulations on the Premises.

4. This Agreement shall remain in full force and effect for an indefinite period of time, unless revoked in writing by either party with ten (10) days advanced notice to the other party.

By: _____
_____, Owner

d/b/a _____

TOWN OF WINTHROP

By: _____
Joseph E. Young, Sr.,
Chief of Police

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

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 Winthrop 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 Chapter/Ordinance to be in conformity with federal and State laws.

§ XX-2 Enabling Legislation

The Town enacts this Chapter/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 Winthrop’s 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 Winthrop.
- 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.

Town Council Adopted November 1, 2010

ORDINANCE #15
Use of Public Property and Parks

PREAMBLE: In order to promote the general welfare of the citizens of the Town of Winthrop, to provide for the public safety and to provide for the protection and maintenance of public property and public parks and to preserve the public peace, the following Ordinance is adopted:

SECTION 1. FIRES PROHIBITED

A person shall not ignite a fire on any public way or other public property without first obtaining a permit from a sworn Fire Warden. Notwithstanding the preceding sentence, charcoal fires in existing enclosed grills shall be permitted between the hours of 6:00 A.M. and 10:00 P.M. at Norcross Point, provided that such fires are not to be left unattended at any time and are to be thoroughly extinguished at the end of the cooking activity.

SECTION 2. CERTAIN ACTIVITIES PROHIBITED

A person shall not fly a kite, play at any game of ball or throw a stone or other object on any public property (authorized area excepted), except in areas specifically authorized or set aside for such purposes. This section shall not apply to Norcross Point provided that such activity is conducted in a manner which does not interfere with the reasonable enjoyment of the area by other members of the public.

SECTION 3. OBSTRUCTING VEHICULAR TRAFFIC

A person shall not obstruct or attempt to obstruct the free flow of vehicular traffic by thrusting himself, another person or an object into a public way.

SECTION 4. CLOSING TIMES FOR CERTAIN PUBLIC PROPERTY

Public parks, public recreation areas and public school grounds in the Town of Winthrop shall be closed to occupancy and use by any person or group from the hours of 10:00 P.M. to 6:00 A.M., except upon written authorization by the Superintendent of Schools or in the case of Public parks, and Public recreation areas written authorization shall be obtained from the Town Manager or his or her designee.

SECTION 5. USE OF ALCOHOLIC BEVERAGES AND DRUGS PROHIBITED

The use, consumption or possession of drugs or alcoholic beverages in public parks, public recreation areas and public school grounds is prohibited. The possession by any person in the aforementioned places of any partially consumed container or device with a residue of said drugs or alcoholic beverages shall be prima facie proof of such use, consumption or possession.

The use or consumption of alcoholic beverages is also prohibited in public ways as defined in Sec. 505 of Title 17A of the Maine Revised Statutes and all other places to which the public has general access, such as hallways of apartment buildings and parking areas, unless permission to do so has been given by the owner or other authorized person.

Such use or consumption of alcoholic beverages by any person shall be a crime punishable under Section 9 of this Ordinance after that person has been given one warning against such conduct by a law enforcement officer. Only one warning shall be required regardless of the amount of time passing between the warning and any subsequent incident involving the same prohibited conduct.

SECTION 6. LITTERING PROHIBITED

No person shall place or cause to be placed on or in any public way, public park, public parking lot or other public property any refuse of any kind including but not limited to, glass, metal, wood or paper products and garbage except in proper containers placed there for the collection of rubbish at the Municipal dump. Owners of domestic animals and persons having responsibility for or control of such animals shall be responsible for the immediate collection and removal from Town property of all excrement deposited by such animals. All dogs shall be on a leash and under control of the owner or custodian of the animal at all times.

SECTION 7. TOWN OWNED BEACH AREAS

Notwithstanding any of the provisions of this Ordinance, the Council may adopt reasonable additional regulations governing the use of any town owned beach area and Norcross Point, including the gazebo. These regulations shall be adopted and may be amended from time to time only after a public hearing with seven (7) days notice thereof. Notice shall be given by posting the proposed regulations at the Town Office along with the place, time and date of the public hearing. Said regulations may be more restrictive than the provisions of this Ordinance, although the provisions of this Ordinance shall apply to said beach areas in the absence of more specific regulations.

SECTION 8. SWIMMING FROM BRIDGES PROHIBITED

A person shall not jump, dive, swim or bathe from, or otherwise stand, sit or loiter on any bridge, dam, cul-de-sac or culvert. Notwithstanding the preceding sentence, pedestrian and vehicular traffic is permitted only for the purpose of fishing or passing over any bridge, dam, cul-de-sac or culvert.

SECTION 9. DOGS PROHIBITED FROM NORCROSS POINT

Notwithstanding any provision of State or Federal law to the contrary allow any owner or person having responsibility for control of a dog on the premises of Norcross Point.

SECTION 10. PENALTY

Any person who violates any of the provisions of this Ordinance or any regulations adopted thereunder shall be punished upon conviction by a fine not less than \$25 nor more than \$100.

Adopted: September 22, 1975

Amended: April 29, 1985

Amended: June 3, 1985

Amended: September 9, 1991

Amended: September 1996

REGULATIONS GOVERNING THE USE OF CERTAIN PUBLIC PROPERTY PURSUANT TO ORDINANCE #15

SECTION 1. SCOPE AND AUTHORIZATION

These regulations are adopted by the Winthrop Town Council under authority of Section 7 of Ordinance #15 (Use of Public Property and Parks). Initially the regulations shall govern the use of the gazebo on Norcross Point, as well as activities associated with the use of the gazebo. The regulations may from time to time be amended to further govern the use of Norcross Point area and the beach area on Maranacook Lake, as well as the beach area on Cobbossee Lake in East Winthrop.

SECTION 2. PERMIT REQUIRED FOR USE OF GAZEBO

Any person wishing to use the Gazebo shall make application to the Town Manager or his designee seven (7) days in advance of the event on a form to be made available at the Town Office. The gazebo may not be used for any activity without first obtaining such a permit.

Permits for use of the gazebo shall, as a general rule, be issued on a first come, first serve basis. However, the Town Manager or his designee may make exceptions in the scheduling priority after giving consideration to those events which can reasonably be expected to draw higher levels of participation from Winthrop residents, or which develop a reasonable level of expectation that the event will occur at a certain time on a regular basis.

Additionally, the Town Manager or his designee may make exceptions to the seven (7) days deadline for filing applications if no conflicts are created and the activity can be reasonably accommodated.

Public access to Norcross Point will not be restricted during the time the Gazebo is rented and/or in use.

SECTION 3. OFFICER REQUIRED

Any person or group proposing to use the gazebo for an activity shall be required to employ a law enforcement officer if the activity can reasonably be expected to generate more than one hundred (100) people.

The Town Manager or his designee may make a determination, which shall be binding upon the applicant, as to the need for the applicant to employ additional law enforcement personnel, depending upon the number of people anticipated to attend the event.

The Town Manager or his designee may make adjustments in the number of law enforcement personnel required during the event following a determination of the approximate number of people who gather for the event.

No permit shall be issued for any activity, which can reasonably be expected to generate a gathering of more than five hundred (500) people. Events may be terminated at the discretion of the Chief of Police in those situations where the attendance limit of five hundred (500) is exceeded.

SECTION 4. BOAT RAMP ACCESS

The applicant shall take responsible precautions to prevent attendees of the event from blocking access to the boat ramp on Norcross Point with their vehicles. Further, the applicant shall provide guidance with respect to the parking of vehicles so as to insure that the double-parking length spaces are reserved for use by vehicles with trailers in tow. The Chief of Police may determine that the applicant must employ a law enforcement officer specifically for that purpose.

SECTION 5. ADDITIONAL RESPONSIBILITIES

Applicants are responsible for cleaning up the gazebo and park area upon completion of the event. Applicants will be liable for any damages incurred and additional law enforcement personnel needed to maintain order before, during, or at the conclusion of the event. Applicants will pay a \$50. cleaning deposit with the application, refundable if the gazebo and park are left clean.

SECTION 6. TOBACCO PROHIBITED

The Norcross Point area, the beach area on Maranacook Lake, and the beach area on Cobbossee Lake in East Winthrop will be tobacco-free, smoke free properties. This includes marijuana, all electronic cigarettes, vaping devices, and smokeless tobacco products.

Amended April 4, 2016

Amended July 11, 2016

Amended August 1, 2016

TOWN OF WINTHROP
ORDINANCE #62
SPECIAL AMUSEMENT ORDINANCE
ARTICLE 1
TITLE, PURPOSE & DEFINITIONS

Section 1.1 TITLE

This Ordinance shall be known and may be cited as Town of Winthrop Special Amusement Ordinance.

Section 1.2 PURPOSE AND AUTHORITY

The purpose of this Ordinance is to control the issuance of Special Amusement Permits pertaining to music, dancing, or entertainment in all public facilities within the boundaries of the Town of Winthrop, including those facilities licensed by the State of Maine to sell liquor. This section is adopted pursuant to Title 28-A M.R.S.A. §1054 and Title 30-A M.R.S.A. §3001.

Section 1.3 DEFINITIONS

A. Entertainment. For the purposes of this Ordinance, entertainment shall include any amusement, performance, exhibition or diversion, whether live, taped or otherwise, for the patrons or customers of the licensed premises whether provided by professional entertainers, by full-time or part-time employees of the licensed premises

whose incidental duties include activities with an entertainment value, by patrons induced by prizes or otherwise to act as entertainers, or by any other.

B. Licensee. For the purposes of this Ordinance, licensee shall include any person, individual, partnership, firm, association, corporation or other legal entity and shall include the holder of a license issued under Title 28-A of the Statutes of the State of Maine or any agent or employee of any such licensee.

C. Licensed Premises. Licensed Premises includes all parts of the contiguous real estate occupied or controlled by a licensee and used by the licensee in the operation of a business which includes activities covered by this Ordinance.

ARTICLE II

GENERAL

Section 2.1 PERMIT REQUIRED

No licensee shall permit, on the licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort, unless the licensee shall have first obtained a special amusement permit signed by at least a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; applicant's residence; applicant's address; the name of the business to be conducted; the business address; the nature of the business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, whether the applicant, including all partners or corporate officers, has ever been convicted of a felony

and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to, a copy of the applicant's current liquor license and Bureau of Public Safety occupancy permit showing the facility's seating capacity.

No permit shall be issued under this Ordinance if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, rules and regulations, of the municipality, and state law.

The fee for a special amusement permit shall be Twenty Five (\$25.00) Dollars.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within fifteen (15) days or such other number of days as the legislature may specify, from the date the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, articles, bylaws, rules and regulations, or state law.

A permit shall be valid only for the license year of the applicant's existing liquor license, if any, and otherwise for a period of one (1) year.

Section 2.2 INSPECTIONS

Whenever inspections of the premises used for or in connection with the operation of the licensed business which has obtained a special amusement permit are provided for or required by municipal ordinance, articles, bylaws, rules and regulations, or state law, or are

reasonably necessary to secure compliance with any of the above, it shall be the duty of the licensee or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

The inspection shall be preceded by a written demand for inspection, which shall specify the date and time inspection is sought. The written demand shall be delivered to the licensee or the person in charge of the premises to be inspected. The request that the inspection be preceded by a written demand shall not apply to law enforcement searches which are based on warrants or probable cause.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance, rule and regulation or state law provision, it shall be the duty of the licensee or the person in charge of the premises, to give to any authorized officer, official or employee of the Town of Winthrop sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke, after notice and hearing, the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee, to make an inspection or who interferes with such officer, official or employee, while in the performance of their duty.

Section 2.3 SUSPENSION OR REVOCATION OF PERMIT

The municipal officers may, after notice and hearing, suspend or revoke any special amusement permit which has been issued under this Ordinance on the grounds that the

music, dancing or entertainment, so permitted, or activities related thereto, constitute a detriment to the public health, safety or welfare, or violates any municipal ordinances, articles, bylaws, rules and regulations or state laws.

Section 2.4 OFFICER ON DUTY

Whenever the licensee shall have on the premises patrons numbering more than two hundred (200) and when entertainment is in progress, the licensee shall provide a uniformed police officer at the licensee's expense, approved by the municipal officers at a regular meeting, on the premises at all such times. Duties of the police officer shall include, but are not limited to, enforcement of the general laws of the State of Maine and ordinances of the Town of Winthrop, including the provisions of this Ordinance and any rules and regulations adopted by the municipal officers hereunder.

Section 2.5 RULES AND REGULATIONS

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension and revocation, of special amusement permits, the classes of permits, the music, dancing or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises and the hours during which the permitted activities are permitted.

Section 2.6 PERMIT AND APPEAL PROCEDURES

A. Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days, or such other number of days as the legislature may specify, from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days, or such other number of days as the legislature may specify, after an application for a permit which has been denied.

B. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within thirty (30) days of the denial, suspension or revocation, appeal the decision to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Section 2.7 ADMISSION

A. Licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

Section 2.8 LIVE ENTERTAINMENT REGULATIONS

The purpose of this Section is to regulate nudity as a form of live entertainment in those establishments at which alcoholic beverages are served or consumed, and which are licensees under this Ordinance.

No licensee shall permit entertainment on the licensed premises whether provided by professional entertainer(s), employees of the licensed premises or any other person, when the entertainment involves:

- A. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- B. The actual or simulated touching, caressing or fondling on the breasts, buttocks, anus or genitals;
- C. The actual or simulated displaying or exposing to view of the genitals, pubic hair, buttocks, anus or any portion of the female breasts at or below the areola area thereof;
- D. The permitting by any licensee of any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or any portion of the female breasts at or below the areola area thereof.

For the purposes of this section, display or displaying and expose or exposing shall mean unclothed or uncostumed or not covered by a fully opaque material and shall include, without limitation, appearing with only an opaque covering or appearing with only an opaque covering which adheres to the skin, such as body paint.

Section 2.9 ADDITIONAL CONDUCT CONSTITUTING OFFENSES BY LICENSEES

- A. The licensee shall not knowingly, intentionally or recklessly allow on his premises, conduct which is in violation of the laws of the State of Maine.
- B. Disorderly Conduct. The licensee shall not knowingly, intentionally or recklessly allow in his licensed premises any person or persons to engage in disorderly conduct, to wit: conduct which intentionally or recklessly causes annoyance to others by making loud and unreasonably noises or knowingly accosting, insulting, taunting or challenging any person with offensive, derisive or annoying words or by gestures or other

physical conduct which would in fact have a direct tendency to cause a violent response by an ordinary person in the situation of the person so accosted, insulted, taunted or challenged.

C. Solicitation of Drinks. The licensee shall not allow on any licensed premises any person not a licensee or an employee who is then and there working, to frequent or loiter with the purpose of soliciting any other person, customer or patron to purchase any drink of any kind.

D. Gambling. The licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by the Statute of the State of Maine or ordinances, articles, bylaws or rules and regulations of the municipality; nor shall any licensee have or keep for gambling purposes on or about such licensed premises any dice, cards, bowls, quoits or other implements used in gambling, or allow any person resorting thereto to use or exercise for gambling purposes any of said games or any other unlawful game or sport therein.

ARTICLE III

PENALTY, SEPARABILITY AND EFFECTIVE DATE

Section 3.1 PENALTY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than Five Hundred (\$500.00) Dollars for each offense. Each day that a violation occurred shall be considered a separate offense.

Section 3.2 SEPARABILITY

The invalidity of any provision of this Ordinance shall not invalidate any other provision.

Section 3.3 EFFECTIVE DATE

The effective date of this Ordinance shall be when enacted.

624:WINTHROP\Special Amusement Ordinance

ORDINANCE 56

TRANSIENT SELLERS & LUNCH WAGONS

Sec. 1. License Required.

Transient sellers of consumer products and operators of lunch wagons shall obtain a license from the Town as set forth herein before selling, offering or exposing for sale any food, goods, wares, merchandise or products of any kind. The application and license shall be area specific. Applicants for a transient sellers license or a lunch wagon license who desire to operate in more than one area at the same time shall obtain a separate license for each area of business.

Applicants required to register as a transient seller pursuant to Title 32 MRSA §4681 shall produce proof of registration at time of application.

Sec. 2. Definitions.

"Transient sellers of consumer products" means any person who engages in the business of selling products to consumers and who does not conduct such activity on property within the Town of Winthrop which is owned or leased by the seller.

"Transient sellers of consumers products' does not include persons who sell door-to-door, at public fairs, expositions or bazaars or members selling on behalf of public service of non-profit organizations.

The term "transient seller of consumer products" shall be deemed to include persons who solicit sales at roadside locations within the bounds of any public way within the Town.

"Lunch wagon" means a vehicle or cart which is used for the sale of food on or within the bounds of any public way within the Town.

"Nonprofit charitable organization" means any not for profit organization formed for charitable purposes.

Sec. 3. Fee.

The license shall be obtained from the Town Council following the submission of any application form to be obtained from and returned to the Town Clerk. An application fee of \$25.00 shall be paid at the time that an application is submitted.

Sec. 4. Term.

Any license issued under this Ordinance shall expire on May 31, except as provided in Sec. 5. Any license to operate a "lunch wagon" shall specifically state that during the Independence Day celebration of each year, only nonprofit charitable organizations holding a current lunch wagon license may sell food from the intersection of Summer Street and Bowdoin Street to the intersection of Knickerbocker Street and Memorial Drive.

Sec. 5. Temporary Licenses.

Applicants for licenses under this Ordinance who propose to conduct such activity for less than 30 days may request a non-renewable, temporary license which shall require the payment of an application fee of \$10.00 at the time the application is submitted.

Sec. 6. Prohibited Locations. No licensee under this Ordinance may conduct business within the boundaries of highways identified as State Routes 41, 133, 135 and 202.

Sec. 7. Non-Transfer.

Licenses issued under this Ordinance shall not be transferable and fees paid are non-refundable.

Sec. 8. Penalty.

Failure to obtain such license prior to selling goods, wares, merchandise or products of any kind is punishable by a fine of not less than \$25.00 and not more than \$250.00.

Sec. 9. Revocation.

Licensees under this Ordinance have the responsibility of keeping the area designated for their business pursuits clean of rubbish, food and or food products related to their business. Failure to maintain a clean site shall be cause for cancellation of the license. Any revocation or suspension of a license shall be subject to the provisions in Title 30-A MRSA §3814.

Sec. 10. Lunch Wagons.

Operators of "lunch wagons" who obtain the license required by this Ordinance shall not be required to obtain any other license under 30-A MRSA § 3931. A license may not be issued if the Lunch Wagon will inconvenience public travel.

Original adoption

First Reading: 2/1/93

Second Reading: 4/5/93

Amended

First Reading: 9/8/97

Second Reading: 10/6/97

Amended

First Reading: 6/4/2001

Second Reading: 6/4/2001

Ordinance # 64

Tree Board Ordinance

I. Purpose

It is the purpose of this ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of Trees, shrubs and other plants within the Town Of Winthrop including public rights of way, public parks, streets, cemeteries and parking areas.

II. Tree Board

1. Establishment A Town Tree Board is hereby established pursuant to 30-A MRSA Section 3001, for the supervision of public shade trees under 30-A M.R.S.A. 3263 and for purposes provided in Section II.
2. Membership The Town Tree Board shall consist of 5 members who are residents of the Town Of Winthrop. The Tree Board shall be appointed by the Town Council. Members of the Board shall serve without compensation.
3. Terms The term of each member shall be for three (3) years, except initially there shall be appointed 2 members for 3 years, 2 members for 2 years and one member for 1 year. When a vacancy occurs, the Council shall appoint a person to fill the unexpired term.
4. Procedures:
 - A. The Board shall elect a Chairperson, Vice-Chairperson and Secretary from among its members and create and fill such other offices, as it may deem necessary.
 - B. The Chairperson shall call at least one regular meeting of the Board every two months. More frequent meetings may be held, as business requires.
 - C. No business may be trans acted in the absence of 3 members of the Board authorized to vote.
 - D. The Board shall adopt rules for transaction of business and the secretary shall keep a record of all transactions, correspondence, findings and determinations. All records of the Board are public and may be inspected at all reasonable times. Said records shall be kept in the Town Office.
 - E. Minutes of all of the Board's meetings shall be provided to the Chairperson of the Conservation Commission and the Recreation Committee.
 - F. All Board meetings shall be open to the public, and shall be publicly announced in the local news media at least twenty-four

(24) hours prior to the meeting. The Commission shall have the right to executive sessions to the extent permitted by state statute.

III. Duties of Tree Board

The Tree Board shall make recommendations to the Town Manager with respect to the selection, acquisition, planting and location of new trees, shrubs and plants and the selection, removal and replacement of existing trees, shrubs and plants on public property. The Tree Board may make recommendations to the Town Manager concerning the care and preservation of trees, shrubs and plants on public property. The Town Manager may carry out any of the Board's recommendations, subject to appropriations for such purposes, through use of the Public Works Department or contractual services.

IV. Tree Wardens

The Council may appoint one or more members of the Tree Board to serve as Tree Wardens for a term of one year. The Tree Wardens shall have enforcement authority as provided under 30- A M.R.S.A. Sec 3282 with respect to the preservation and care of public trees.

V. Violations, Penalties

It shall be unlawful for any person to trim cut or otherwise destroy any tree or shrub located on public property of the Town or within the limits of any public way, except as permitted by statute. Any person who violates this section commits a civil violation for which the Town may recover civil penalty of not more than one hundred dollars (\$100.00) to be recovered by complaint before the Kennebec County District Court.

VI. Validity of Ordinance

Should any section or part thereof of this Ordinance be held by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

1st Reading:

2nd Reading:

WINTHROP, MAINE

SMALL WIND ENERGY SYSTEMS ORDINANCE

I. Title

This ordinance shall be known and cited as the "SMALL WIND ENERGY SYSTEMS ORDINANCE" of the Town of Winthrop, Maine, (hereinafter referred to as the "ordinance").

II. Authority

The Winthrop Planning Board (hereinafter referred to the "Board") is vested with the authority to review and approve, conditionally approve or reject any application for small wind energy systems.

III. Purpose and Intent

The purpose of this ordinance is to facilitate the permitting and installation of small wind energy systems and to preserve and protect public safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system.

IV. Applicability

The requirements of this ordinance shall apply to all free standing small wind energy systems proposed, modified, or constructed after the adopted date of this ordinance. General ordinance requirements shall not apply to small wind energy systems mounted as an accessory on the wall or roof of a structure or to ornamental or architectural windmills.

V. Severability

If any section, clause, or provision of this ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of this ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

VI. Conflict

Where this ordinance is in conflict with other Winthrop ordinances, this ordinance shall prevail.

VII. Definitions

1) Applicant

The person, firm, corporation, company, Limited Liability Company or other entity which applies for approval under this ordinance.

2) Meteorological Tower

A structure designed to support the gathering of wind resource data. This includes the tower, equipment booms, base plate, anchors, guy wires, and weather instrumentation.

3) Setback

The horizontal distance measured from the center of a tower base to a second specified point.

4) Site

The parcel(s) of land where a small wind energy system is to be placed. The site can be publicly or privately owned and may include several adjacent lots. Where the site is comprised of several adjacent lots the combined lots shall be considered one for the purpose of applying setback requirements.

5) Small Wind Energy System

A wind energy system consists of a wind turbine, a tower, footings, electrical infrastructure, and any other associated equipment or structures, which has a rated capacity of not more than 100 kilowatts and which is intended to produce electrical power primarily for the benefit of the applicant.

6) System Height

The vertical distance measured from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the small wind energy system tower to the highest point of the wind turbine blade when the tip is at its full vertical position.

7) Tower

Tower means a monopole, lattice, or guyed structure that supports a wind turbine.

8) Wind Energy System

Wind energy system means a wind powered generator and all associated equipment, including foundation, base, tower, nacelle, turbine, vane, wire, inverter, batteries, or other components necessary to fully utilize the wind energy.

9) Windmill

A low speed wind turbine that principally captures wind energy by drag, i.e. the traditional multi-bladed farm windmill or Dutch windmill.

10) Licensed Professional Engineer

A Professional Engineer who is licensed by a governmental entity having jurisdiction in either the United States or Canada and who has the authority to sign and seal or "stamp" engineering documents (reports, drawings, and calculations) for a study, estimate, design or analysis, thus taking legal responsibility for it.

VIII. Building Permit Applications;

Small wind energy system building permit applications shall be submitted to the Code Enforcement Officer and shall include the following;

1) Name, address, telephone number of the applicant.

- 2) Address of the proposed small wind energy system's location, including tax map and lot numbers. If the site includes properties not owned by the applicant, the applicant shall provide the Board with proof that the applicant holds rights for use of that property through long term lease or other conveyance and that the owner(s) of such property are aware of and agree to the construction of the proposed small wind energy system.
- 3) A description of the project, including the manufacturer and model, the maximum rated capacity of the small wind energy system, tower type, the system height, and whether or not it will be connected to the electric utility lines.
- 4) If available, standard drawings or blue prints of the wind turbine tower and footings and an analysis of the tower and footings certified by a licensed professional engineer shall be submitted. This analysis may be supplied by the manufacturer. Wet stamps shall not be required.
- 5) A small wind energy site plan drawn to scale and showing compass orientation, the planned location of the tower, property lines and physical dimensions of the property, location and dimensions of existing structures on the property, the proposed location of the tower, the location of major structures on abutting properties within two (2) times the system height from the proposed tower location.
- 6) Written evidence that the electrical utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electrical generator, unless the applicant does not plan, and so states, to connect the system to the electric utility lines.

IX. Standards

1) Zoning Districts

Small wind energy systems and meteorological towers are permitted as a principal or accessory use in all Zoning Districts. A different existing use or an existing structure on the same lot shall not preclude the installation of a small wind energy system or meteorological tower. A small wind energy system or meteorological tower installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

2) Setbacks

Small wind energy systems certified by a licensed professional engineer shall be setback a minimum horizontal distance of 50% of the system height from property lines. Setbacks for small wind energy systems not certified by a licensed professional engineer shall be 110% of the system height from the property lines. These distances may be reduced to the setback requirement of other structures in the same zone with the written consent of the owner of the abutting property.

3) At the time of application, each small wind energy system shall be set back from the nearest abutting inhabited structure by a distance not less than 150% of the system height. This distance may be reduced with the written consent of the owner of the abutting property.

4) Anchor points for guy wires for a tower shall be located within the site and are not otherwise constrained by setback requirements. The point of attachment for guy wires shall be enclosed by a fence or sheathed in bright orange or yellow covering to eight (8) feet above the ground.

5) Height

The system height of a small wind energy system shall not exceed 140 feet. The allowed height shall be reduced if necessary to comply with Federal Aviation Administration Requirements.

6) Ground Clearance

The blade tip of any rotor shall, at its lowest point, have a ground clearance of not less than twenty (20) feet.

7) Small wind energy systems shall be principally used to produce power for the benefit of the applicant. This standard does not preclude utility line connections for net metering or other small energy system grid tie-in plans that the Maine Public Utilities Commission may adopt.

8) The maximum power output for each small wind energy system shall be 100 kilowatts.

9) The system's tower, turbine, and blades shall be a non-reflective neutral color unless otherwise required by the Federal Aviation Administration.

10) Exterior lighting on any tower or turbine associated with the small wind energy system shall not be allowed except that which is required by the Federal Aviation Administration.

11) Except during short-term events including utility outages and severe wind storms, the audible noise due to wind turbine operations shall not create a nuisance condition.

12) Small wind energy systems larger than 1 kW shall be equipped with automatic over-speed controls to limit the turbine speed to within design limits and brakes to lock or minimize rotation.

13) A small wind energy system that is not in use shall be braked or locked so as to prevent uncontrolled rotation.

14) All small wind energy systems shall be maintained in safe condition. Systems that are structurally unsafe must be repaired or dismantled promptly. The town of Winthrop shall have the authority to pursue legal action if necessary.

X. Meteorological Towers

Meteorological towers shall require the same application procedures and applicable standards as small wind energy systems. They shall ordinarily be permitted for a period of two (2) years unless that period is extended by the Board.

XI. Waivers or Modifications

The Winthrop Planning Board may, after a public hearing, grant a waiver or modification from the strict application of the provisions of this ordinance if, in the opinion of the Board, the grant of the waiver or modification will not produce an adverse effect on the general safety and welfare of the town.. The Board may consider as reasonable factors in evaluating the request: the impact of the waiver or modification on the neighborhood, the benefit to the applicant, feasible alternatives, and the scope of the request.

Town of Winthrop Zoning Ordinance, Definitions:

Commercial Use: Any tower or similar structure not exempted by provisions of Section 4 of the Winthrop Wireless Telecommunications Facilities Ordinance, and excepting Stealth Towers, shall be considered a commercial use.

Stealth Tower: Any structure which allows for use of a pre-existing building, steeple, silo, or other object of sufficient altitude for commercial wireless telecommunications, and which:

1. 1. does not increase the height of the original structure.
2. 2. blends visually to a very high degree with the original structure.

Examples are: a facility using a steeple, which has the appearance of being a part of the steeple; a facility atop a building which has the appearance of a chimney, vent, or other traditional use, and which is no higher than the highest point of the original structure.

Tower: any structure the primary purpose of which is to provide sufficient height for a commercial purpose, such as, but not limited to, telecommunications.

Winthrop Wireless Telecommunications Facilities Ordinance

Section 1. Title

This Ordinance shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" of the Town of Winthrop, 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 4312 et seq.

Section 3. Purpose

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to: Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;

Establish clear guidelines, standards and time frames for the exercise of municipal authority to 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 Winthrop;

Permit and manage reasonable access to the public rights of way of the Town of Winthrop for telecommunications purposes on a competitively neutral basis;

Ensure that all telecommunications carriers providing facilities or services within the Town of Winthrop comply with the ordinances of the Town of Winthrop;

Ensure that the Town of Winthrop can continue to fairly and responsibly protect the public health, safety and welfare;

Encourage the colocation of wireless telecommunications facilities , thus helping to minimize adverse visual impacts on the community;

Enable the Town of Winthrop to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development;

Further the goals and policies of the comprehensive plan, while promoting orderly development of the town with minimal impacts on existing uses; and

Protect the scenic and visual character of the community.

Section 4. Applicability

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in section 4.1.

4.1. Exemptions

The following are exempt from the provisions of this ordinance:

- A.) Emergency Wireless Telecommunications Facility. Temporary wireless communication facilities for emergency communications by public officials.
- B.) Amateur (ham) radio stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- C.) Parabolic antenna. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- D.) Maintenance or repair. Maintenance or repair of a wireless telecommunications facility and related equipment, provided that there is no change in the color, height or any other dimension of the facility. Reconstruction of an existing facility will require a conditional use permit if that facility is in any way non-compliant with this ordinance in order to bring nonconforming uses into compliance and to promote colocation of existing facilities.
- E.) Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

Section 5. Review and Approval Authority

5.1. Approval Required

No person shall construct or expand a wireless telecommunication facility without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

- A.) A.) Colocation. Approval by the CEO is required for any expansion of an existing wireless telecommunications facility that increases the height of the facility by no more than 20 feet one time during the life of the facility; accessory use of an existing wireless telecommunications facility; or colocation on an existing wireless telecommunications facility, or on any existing structure.

- B.) B.) New Construction. Approval of the Planning Board is required for construction of a new wireless telecommunications facility, and any expansion of an existing wireless telecommunications facility.

5.2 Approval Authority

In accordance with Section 5.1 above, the CEO or Planning Board shall review applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this Ordinance.

Section 6. Approval Process

6.1. Pre-Application Conference

All persons seeking approval of the CEO or the Planning Board under this ordinance shall meet with the CEO no less than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

6.2. Application

All persons seeking approval of the CEO or the Planning Board under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

A.) Application for CEO Approval. Applications for permit approval by the CEO must include the following materials and information:

- 1.) 1.) Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.
- 2.) 2.) A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
- 3.) 3.) 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).
- 4.) 4.) Drawings of the proposed colocation, showing color, and identifying structural materials.

B.) Application for Planning Board Approval. An application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

- 1.) Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
- 2.) A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.

3.) A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.

4.) A site plan:

a.) prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;

b.) certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and

c.) a boundary survey for the project performed by a land surveyor licensed by the State of Maine.

5.) A scenic assessment, consisting of the following:

a.) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;

b.) A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

c.) Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

d.) A narrative discussing:

i.) the extent to which the proposed facility would be generally visible from multiple locations within the town of Winthrop, and the distance from such locations to the facility; and

ii.) the tree line elevation of vegetation within 100 feet of the facility.

6.) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

7.) Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:

- a.) Evidence that no existing facilities are located within the targeted market coverage area as required to 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 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, 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 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. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance;
 - e.) Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing facility, building, or structure, and has been denied access;
- 8.) 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).
- 9.) A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
- a.) respond in a timely, comprehensive manner to a request for information from a potential colocation 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.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
 - d.) require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

e.) allow location of antennas or similar devices for use by the municipality for police, fire department, and emergency services. A reasonable fee for the cost of installation would be allowed.

11.) A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

12.) Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

6.3. Submission Waiver

The CEO or Planning Board, as appropriate, may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the CEO or Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

6.4. Fees

A.) CEO Application Fee

An application for CEO approval shall include payment of an application fee of \$100. The application shall not be considered complete until this fee is paid. The applicant is entitled to a refund of the application fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the Town of Winthrop to review the application.

B.) Planning Board Application Fee

An application for Planning Board approval shall include payment of an application fee of \$2,500. The application shall not be considered complete until this fee is paid. An applicant is entitled to a refund of the application portion of fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the Town of Winthrop to review the application.

C.) Planning Board Review Fee

An applicant for approval by the Planning Board shall pay all reasonable and customary fees incurred by the municipality, such as consulting, that are necessary to review the application. The review fee shall be paid in full promptly upon request, and prior to further review.

That portion of the review fee not used shall be returned to the applicant within fourteen (14) days of the Planning Board's decision.

D.) Application and Review Fees Complete Municipal Fee Structure.

Payment of all applicable fees under section 6.4 shall constitute complete payment of municipal fees which may be applied to the construction and/or renovation work under review. No further fees for land use or building permits may be levied for this construction and/or renovation work.

6.5. Notice of Complete Application

A. Upon receipt of an application for approval by the CEO under Section 5.1(A), the CEO shall provide the applicant with a dated receipt. Within five (5) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. The CEO shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application. If the application is complete, the CEO shall notify the applicant in writing of this determination. If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

B. Upon receipt of an application for approval by the Planning Board under Section 5.1(B), the CEO shall provide the applicant with a dated receipt. Within thirty (30) working days of receipt of an application, the Planning Board shall conduct a hearing to determine if the application meets the submission requirements. The Planning Board shall review any requests for a waiver from the submission requirements and shall act on these requests at the hearing and prior to determining the completeness of the application. If the Planning Board determines that the application is complete, the CEO shall notify the applicant in writing of this determination. If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application. In the alternative, the Planning Board may advise the applicant of the completeness or incompleteness of the application at the hearing. If the application is determined to be complete, the CEO may require the applicant to provide a sufficient number of copies of the application to the Planning Board. Once the application is deemed to be complete, and requires Planning Board review, the CEO shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

6.6. Public Hearing

For applications for Planning Board approval under Section 5.1(B), a public hearing shall be held within 30 days of the notice of the complete application, or as soon as practicable thereafter.

6.7. Approval

A.) CEO Approval. Within thirty (30) days of receiving a complete application for approval under section 5.1(A), 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 in Section 7.1 of this ordinance.

The CEO shall notify all abutters of the decision to issue a permit under this section. The time period may be extended upon agreement between the applicant and the CEO.

B.) Planning Board Approval. Within ninety (90) days of receiving a complete application for approval under section 5.1(B), the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. However, if the Planning Board has a waiting list of applications that would prevent the Planning Board from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within sixty (60) days of the public hearing, if necessary, or within 60 days of the completed Planning Board review. This time period may be extended upon agreement between the applicant and the Planning Board.

Section 7. Standards of Review

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

7.1. CEO Approval Standards

An application for approval by the CEO under Section 5.1(A) must meet the following standards.

- A.) The proposed facility is an expansion, accessory use, or colocation to a structure existing at the time the application is submitted.
- B.) The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.
- C.) The accessory use or colocation does not increase the height of the existing facility, and must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- D.) The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon 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).

7.2. Planning Board Approval Standards

A.) Location

New wireless telecommunications facilities may be permitted in all but the following districts as designated in the municipal zoning ordinance:

Limited Residential Zone.

B.) Siting on Municipal Property. If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the applicant must show the following:

- 1.) The proposed location complies with applicable municipal policies and ordinances.
- 2.) The proposed facility will not interfere with the intended purpose of the property.
- 3.) The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

C.) Design for Colocation. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future colocation.

D.) Height. A new wireless telecommunications facility must be no more than 195 feet in height or any lesser height which does not require lighting by the FCC, whichever is less.

E.) Setbacks. A new or expanded wireless telecommunications facility must comply with the set back requirements for the zoning district in which it is located, or be set back one hundred five percent (105%)

of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemption applies:

1.) An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

F.) Landscaping. A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

G.) Fencing. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

H.) Lighting. A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

I.) Color and Materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable.

J.) Structural Standards. A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

K.) Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse visual impact.

1.) In determining the potential unreasonable adverse impact of the proposed facility, the Planning Board shall consider the following factors:

a.) a.) The extent to which the proposed wireless telecommunications facility is visible.

b.) b.) the type, number, height, and proximity of existing structures and features, and background features within a five-mile radius of the proposed facility;

c.) the amount of vegetative screening;

d.) the presence of reasonable alternatives that allow the facility to function consistently with its purpose.

L.) Noise. During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. is exempt from existing municipal noise standards.

M.) Historic & Archaeological Properties. The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

7.3 Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

- 1.) The owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - a.) respond in a timely, comprehensive manner to a request for information from a potential colocation 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.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation.
 - d.) require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.
 - e.) allow location of antennas or similar devices for use by the municipality for police, fire department, and emergency services. (a reasonable fee for the cost of installation would be allowed.)
- 2.) Upon request by the municipality, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

Section 8. Amendment to an Approved Application

Any changes to an approved application must be approved by the CEO or the Planning Board, in accordance with Section 5.

Section 9. Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing, and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed

necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.
If a surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

Section 10. Appeals

Any person aggrieved by a decision of the CEO or the Planning Board under this ordinance may appeal the decision as provided by section 5.8 of the municipal zoning ordinance. Written notice of an appeal must be filed within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

Section 11. Administration and Enforcement

The CEO, as appointed through either the Zoning Ordinance or Town Council, shall enforce 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 action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance.

The Town Council, or their authorized agent, are 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 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 or substantial environmental damage.

Section 12. Penalties

Any person who owns or controls any building or property that violates this ordinance shall be fined in accordance with Title 30-A M.R.S.A. § 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

Section 13. Conflict and Severability

13.1 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, the more restrictive provision shall apply.

13.2 Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

Section 14. Definitions

The terms used in this ordinance shall have the following meanings:
"Antenna" means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

"Antenna Height" means 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 tower height shall include 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.

"Colocation" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

"Expansion" means the addition of antennas, towers, or other devices to an existing structure.

"FAA" means the Federal Aviation Administration, or its lawful successor.

"FCC" means the Federal Communications Commission, or its lawful successor.

"Height" means 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. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

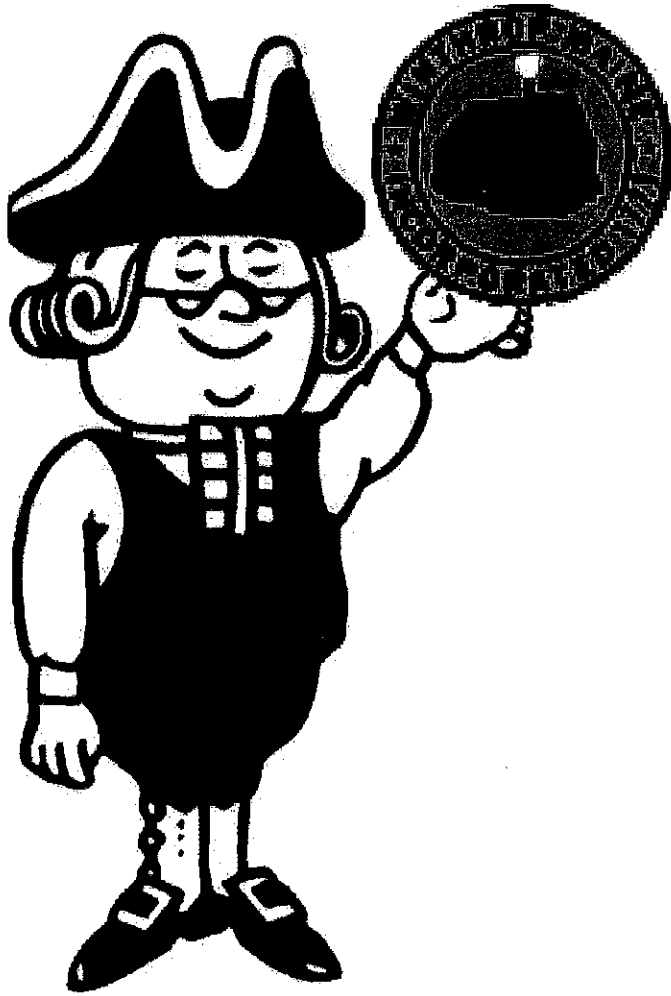
"Historic District" means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

"Wireless Telecommunications Facility" or "Facility" means 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, common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

Section 15. Effective Date

This ordinance becomes effective on July 16, 2004.

Town of Winthrop



Zoning Ordinance

Printed: November 2015

Table of Contents

Article 1 - General

1.1.	Title and Authority	1
1.2.	Comprehensive Plan and Community Policy	1
1.3.	Basic Structures	2
1.4.	Validity and Severability	2
1.5.	Conflict with Other Ordinances	2
1.6.	Amendment	3
1.7.	Effective Date	4
1.8.	Availability	4

Article 2 - Non-conforming Uses, Buildings and Lots

2.1.	Continuance of Non-conforming Uses	5
2.2.	Non-Conforming Uses	5
2.3.	Non-Conforming Structures	6
2.4.	Non-Conforming Lots Of Record	7
2.5.	Transfer of Ownership	8
2.6.	Re-establishing High-Impact Commercial Uses	8

Article 3 - Zoning Districts

3.0.	Establishment of Zoning Districts	9
3.1.	Resource Protection Zoning District	10
3.2.	Public Water Supply Zoning District	11
3.3.	Shoreland Zoning District	12
3.4.	Wetland Protection Zoning District	13
3.5.	Stream Protection Zoning District	14
3.6.	Rural Zoning District	15
3.7.	Limited Residential Zoning District	16
3.8.	General Residential Zoning District	17
3.9.	Village Zoning District	18
3.9-1	Village Commercial Zoning District	19
3.10	Limited Commercial Zoning District	20
3.11.	General Commercial Zoning District	21
3.12.	Industrial Zoning District	23
3.13.	Dimensional Requirements - Chart	23A

Article 4 - Performance Standards

4.0.	General Requirements	23
4.1.	Performance Standards	23
4.1.1.	Erosion Control	24
4.1.2.	Nuisance Conditions	25
4.1.3.	Off-street Parking and Loading	25
4.1.4.	Sanitary Provisions	32
4.1.5.	Signs	32

4.1.6.	Stormwater Runoff	33
4.1.7.	Water Quality Protection	33
4.2.	Specific Activities	34
4.2.1.	Agriculture	34
4.2.2.	Campgrounds and Individual Private Campsites	35
4.2.3.	Mineral Extraction	36
4.2.4.	Home Occupations	37
4.2.5.	Livestock and Poultry Keeping	37
4.2.6.	Mobile Homes	38
4.2.7.	Multi-family Dwellings	39
4.2.8.	Route 202 Development	40
4.3.	Development in Shore Areas	41
4.3.1.	Common Shoreland Access	41
4.3.2.	Clearing	41
4.3.3.	Piers, Docks and Other Shoreland Construction	43
4.3.4.	Road and Driveway Construction	44
4.3.5.	Timber Harvesting	45
4.3.6.	Soils	47
4.3.7.	Essential Services	48
4.3.8.	Archaeological Sites	48
4.3.9.	Seasonal Conversions	48
4.3.10.	Adaptive Reuse of Special Purpose Buildings	49
4.4	Cluster Residential Development	49

Article 5 - Administration

5.1.	Enforcement	51
5.2	Building or Use Permit	51
5.3.	Plumbing Permit Required	52
5.4.	Fees	53
5.5.	Enforcement Officer	54
5.6.	Legal Action and Violations	54
5.7.	Fines	55
5.8.	Appeals and Conditional Use Permits	55
5.8.1.	General Procedure	55
5.8.2.	Zoning Board of Appeals	55
5.8.3.	Conditional Use Permits	57
5.8.4.	Appeal and Conditional Use Permit Procedures	59
5.8.5.	Conditions Attached . . .	61

Article 6 - Definitions

6.1.	Construction of Language	63
6.2.	Definitions	63

Article 1 - General

1.1. Title and Authority

This Ordinance is adopted pursuant to Home Rule powers as provided for in Article VIII, Part Second, Subsection 2 of the Maine Constitution and in Title 30-A, M.R.S.A., Section 3001 et. seq. and pursuant to zoning powers provided for in Title 30-A, M.R.S.A., Section 4352 et. seq. and shall be known and may be cited as the "Zoning Ordinance of the Town of Winthrop, Maine", and will be referred to herein as "This Ordinance".

1.2. Comprehensive Plan and Community Policy

This Ordinance is adopted pursuant to and consistent with the Winthrop, Maine, Comprehensive Plan, for the following purposes:

- A.** To promote, protect and facilitate the health, safety, and general welfare of the residents of the Town;
- B.** To prevent overcrowding, blight, traffic congestion, and such nuisance conditions as may be caused by waste discharge, noise, glare, fumes, smoke, dust, odors or auto, truck or rail traffic;
- C.** To prevent and control water pollution, to protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, to protect freshwater wetlands and to conserve shore cover, visual and actual points of access to lakes, ponds and streams;
- D.** To protect the historical and architectural integrity of the existing village development and to ensure that future development is compatible in both character and use;
- E.** To provide for residential development in locations compatible with existing development and in a manner appropriate to the economical provision of community services and utilities;
- F.** To provide for a variety of commercial and industrial uses in a manner appropriate to their location and the economical provision of essential

community services and utilities so as to avoid the blight, congestion, and inconvenience caused by inappropriate and poorly located development of commercial and industrial facilities;

G. To encourage open space uses and to conserve natural beauty;

H. To control building sites, placement of structures and land uses, to protect buildings and lands from flooding and accelerated erosion, to anticipate and respond to the impacts of development in shoreland areas.

1.3. Basic Structures

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and uses of premises in the Town of Winthrop shall be in conformity with the provisions of this Ordinance. No building, structure, land, or water area shall be used for any purpose or in any manner except as permitted within the Zoning District in which such building, structure, land, or water area is located.

1.4. Validity and 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 this Ordinance.

1.5. Conflict with Other Ordinances

1.5.1. Repeal of Prior Ordinances

The 1972 Zoning Ordinance of Winthrop, as amended May 2, 1979; the State Minimum Shoreland Zoning Ordinance, imposed August 7, 1975; and the Winthrop Mobile Home Ordinance, amended March 1971, are repealed, and incorporated herein, as amended.

1.5.2. Conflict with Other Ordinances

Where the provisions of this Ordinance conflict with other ordinances or regulations, the more restrictive provisions shall be applied.

1.6. Amendment

1.6.1. Initiation of Amendment

An amendment to this Ordinance may be initiated by:

- (1) The Planning Board provided four (4) of the Board members have so voted;
- (2) Request of the Town Council to the Planning Board, or
- (3) Written petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election.

1.6.2. Adoption of Amendment

An amendment to this Ordinance may be adopted by a majority vote of the Town Council. Any amendment affecting the shoreland areas shall not be effective unless approved by the Commissioner of the Department of Environmental Protection (DEP). If the Commissioner fails to act on any amendment within forty-five (45) days of the receipt of the amendment, the amendment is automatically approved.

Any application for a permit submitted within the forty-five day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

1.6.3. Public Hearing

The Planning Board and the Town Council shall hold a public hearing on the proposed amendment prior to a vote by the Town Council. Notice of the hearing shall be posted at least 14 days in advance in the Town Office, and shall be published at least 7 days in advance in a newspaper of general circulation in the area. Property owners affected by the proposed amendment shall be notified as required by State Law. [see 30-A M.R.S.A. 4352,9]

1.6.4. Repetitive Petitions

No proposed changes in this Ordinance which have been unfavorably acted upon by the Town Council shall be considered on its merits by the Town Council within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended by the vote of at least five members of the entire Planning Board.

1.7. Effective Date

The effective date of this Ordinance is June 4, 1981. Amendments to this Ordinance required pursuant to Mandatory Shoreland Zoning shall become effective after approval by the Department of Environmental Protection.

1.8. 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 a reasonable cost.

Article 2 - Non-Conforming Uses, Buildings and Lots

2.1. Continuance of Non-conforming Uses and Buildings

The use of land, building, or structure, lawful at the time of adoption or subsequent amendment of this Ordinance, shall be allowed to continue although such use does not conform to the provisions of this Ordinance, provided that any such use or building shall otherwise be in compliance with any other applicable laws or regulations.

2.2. Non-Conforming Uses

2.2.1. Expansion of Non-Conforming Uses

No non-conforming use may be extended or expanded in any building or structure or on the lot where it is located without a Conditional Use Permit from the Planning Board. Expansions of non-conforming uses in the Resource Protection Zoning District are prohibited, except in cases dealing with residential structures. In order to protect the town's lakes and ponds, expansion of non-conforming uses in the Public Water supply and Shoreland Zoning Districts must result in no increase of phosphorus export from the property. However, non-conforming residential uses may be expanded with Planning Board approval within existing residential structures or expansions of residential structures as permitted in Section 2.3 below. The maximum allowable expansion of a non-conforming use in any other Zoning District shall not exceed 35 percent of the existing gross floor area of such use at the time of adoption of this subsection, and any such expansion shall comply with the criteria for Conditional Use approval.

2.2.2. Change in Non-Conforming Use

No non-conforming use shall be changed or converted to another non-conforming use of greater impact. Within the Resource Protection, Public Water Supply, and Shoreland Zoning Districts no non-conforming use shall be changed or converted to another non-conforming use without Planning Board approval. The intent of the Planning Board approval is to prevent increased threat to water quality.

2.2.3. Discontinuance of Non-Conforming Uses

A non-conforming use which is discontinued for a period of one (1) year may not be resumed. The uses of the land, building, or structure shall thereafter conform to the provisions of this Ordinance.

2.2.4. Change to Conforming Use

Whenever a non-conforming use is superseded by a permitted use, the use of the

property shall thereafter conform to the provisions of this Ordinance.

2.2.5. Registration of Non-Conforming Uses

The Codes Enforcement Officer shall identify and maintain an inventory of non-conforming uses. To lawfully expand a non-conforming use, the owner thereof must produce clear and convincing evidence to the Codes Enforcement Officer that the non-conforming condition existed prior to August 11, 1988.

2.3. Non-Conforming Structures

2.3.1. Expansion of Non-Conforming Structures

A non-conforming building or structure may be extended or expanded provided that such extension or enlargement shall comply with all applicable use and dimensional requirements for the Zoning District in which the building or structure is located and the limitations listed below. Expansion of any building or structure which contains a non-conforming use is deemed to constitute an expansion of non-conforming use and shall be regulated by the requirements of Section 2.2.

Limitations in the Resource Protection, Public Water Supply, and Shoreland Zoning Districts:

- a. If any portion of a structure is less than the required shoreline or freshwater wetland setback, that portion of the structure shall not be expanded by 30 percent or more of either floor area or volume over the lifetime of the structure.
- b. Construction or expansion of a foundation beneath the existing structure shall not be considered part of the 30 percent expansion provided: that the new foundation meets the setback requirement to the greatest practical extent as determined by the Planning Board (using the same criteria as in section 2.3.2 below), that the completed foundation does not extend beyond the exterior dimensions of the structure and that the foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the present base of the structure.
- c. No structure which is less than the required setback from the normal high-water line of a water body, stream, or freshwater wetland shall be expanded toward the water body, stream, or wetland. No structure shall be allowed to expand to the side if such expansion will result in a wider structure that does not meet the required setback.

2.3.2. Relocation of Non-Conforming Structures

A non-conforming structure in the Resource Protection, Public Water Supply, or Shoreland Zoning District 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, and provided that the applicant demonstrates that the subsurface sewage disposal system to be used meets the requirements of the Maine Subsurface Wastewater Disposal Rules. In determining whether the relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size and shape 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 potential locations for a replacement septic system, and the type and amount of vegetation to be removed to accomplish the relocation.

2.3.3. Reconstruction or Replacement

A non-conforming structure which is located less than the required setback from a water body, stream, or freshwater wetland and is removed, damaged, or destroyed by more than 50 percent of the market value of the structure prior to the incident may be reconstructed or replaced provided that a permit is obtained within one year of the date of said incident and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board using the criteria in paragraph 2.3.2. above, and considering the physical condition and type of foundation present. If the amount of damage is 50 percent or less, the structure may be reconstructed in place with a building permit from the Codes Enforcement Officer. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

2.3.4. Change in Use

The use of a non-conforming structure may not be changed to another use unless the new use will have no greater impact on the environment, or on the property or adjacent properties.

2.4. Non-Conforming Lots of Record

2.4.1. A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the lot size or frontage requirements, or both, of the Zoning District in which it is located, may be built upon provided that

such lot shall be in separate ownership and not contiguous with any lot in the same ownership, and provided that all other provisions of this Ordinance shall be met.

2.4.2. If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if any of the lots do not meet dimensional requirements of the Ordinance, and if one or more of the lots are vacant or contain no principal structure, the lands involved shall be considered to be a single parcel for the purpose of this Ordinance and no portion of said parcel shall be built upon which does not meet dimensional requirements of this Ordinance: nor shall any division of the parcel be made which creates any dimension or area less than the requirements of this Ordinance. In shoreland areas, this provision shall not apply if the lot is served by public sewer or can accommodate a subsurface wastewater 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 subparagraph 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.

2.4.3. Lots of record which are situated in subdivisions approved by the Winthrop Planning Board on or after August 6, 1969, under standards applicable at the time of approval of those subdivisions shall not be affected by the requirements of paragraphs 2.4.1. and 2.4.2. above, provided that minimum State requirements for subsurface wastewater disposal shall be met and provided that all other provisions of this Ordinance shall be met.

2.5. Transfer of Ownership

Ownership of land and structures and uses which remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming subject to the provisions of this Ordinance.

2.6 Re-establishing High-Impact Commercial Uses

The reestablishment of a high-impact commercial use would be allowed within an existing structure, if said structure has not been subject to major modifications that have considerably changed said high-impact commercial use. Partition walls are not by themselves considered major modifications. [adopted 7/7/97, effective 8/5/97]

Article 3 - Zoning Districts

3.0. Establishment of Zoning Districts

3.0.1. District Purposes and Criteria

To implement the provisions of this Ordinance, the Town of Winthrop is divided into Zoning Districts, located and bounded as shown on the Official Zoning Map, entitled "Zoning Map of Winthrop, Maine", dated and filed by the Town Clerk and Chairperson of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment.

3.0.2. Interpretation of Zoning District Boundaries

Where uncertainty exists with respect to the boundaries of the various Zoning Districts as shown on the Zoning Map, the following rules shall apply:

3.0.2.1. Boundaries indicated as approximately following the centerline of streets, highways, right-of-ways, or alleys shall be construed to follow such centerline;

3.0.2.2. Boundaries indicated as approximately following well-established lot lines shall be construed as following such lot lines;

3.0.2.3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;

3.0.2.4. Boundaries indicated as following railroad lines shall be construed to follow such lines;

3.0.2.5. Boundaries indicated as following shorelines of surface waters or wetlands shall be construed to follow such shorelines, and in the event of natural change in the shoreline, shall be construed as moving with the actual shoreline; the upland edge of a wetland shall be defined by the current National Wetlands Inventory maps (available from the Maine Geological Survey) and verified on the ground by the Codes Enforcement Office; boundaries indicated as approximately following the centerline of streams, ponds, lakes, or other bodies of water shall be construed to follow such centerlines;

3.0.2.6. Boundaries indicated as being parallel to or extensions of features indicated in subsections 3.0.2.1. through 3.0.2.5. shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and

3.0.2.7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 3.0.2.1. through 3.0.2.6., the Zoning Board of Appeals shall interpret the Zoning District boundaries.

3.0.3. Division of Lots by Zoning District Boundaries

Where a Zoning District boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to approval by the Planning Board in accordance with the criteria for Conditional Use Permits.

3.0.4. Prohibited Uses

Any land use not specified in subsections 3.1. through 3.12. shall be considered a prohibited use.

3.1. Resource Protection Zoning District

The Resource Protection Zoning District includes land areas least suited for and least able to sustain development, due to physical site conditions involving topography, soil types, drainage, or proximity to surface waters. Development of these areas is apt to adversely affect water quality, productive habitat, biological systems, or scenic and natural values. Such areas include, but are not limited to wetlands, swamps, marshes, bogs, areas of sustained slopes greater than 20%, significant wildlife habitat, natural sites, and aesthetic features.

A. The following uses are permitted by right:

1. Open space uses
2. Signs

B. The following uses require a Codes Enforcement Officer permit:

1. Earth-moving less than 10 cubic yards
2. Temporary piers and docks
3. Individual, private campsites
4. Uses similar to these uses

C. The following uses require a Conditional Use Permit from the Planning Board:

1. Timber harvesting or clearing of land
2. Earth-moving greater than 10 cubic yards
3. Permanent piers and docks, breakwaters, causeways, and bridges
4. Accessory structures
5. Home occupations
6. Essential services
7. Uses similar to these uses
8. Adaptive reuse of an existing building, subject to the requirements of Section 4.3.10. [effective 8/11/99]

D. [reserved]

E. The dimensional requirements of the Zoning District are as follows:

- | | |
|------------------------------------------------------------------------------------------------------------------|----------------|
| 1a. Minimum lot size (sewered) | 60,000 sq. ft. |
| 1b. Minimum lot size (non-sewered) | 80,000 sq. ft. |
| 2. Minimum road frontage | 150 feet |
| 3. Minimum shore frontage | 200 feet |
| 4. Minimum shoreline setback | 100 feet |
| 5. Minimum road setback | 50 feet |
| 6. Minimum sideline setback | 20 feet |
| 7. Minimum rearline setback | 20 feet |
| 8. Maximum building height | 35 feet |
| 9. Maximum impervious area | 20 percent |
| 10. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] | |

3.2. Public Water Supply Zoning District

The Public Water Supply Zoning District surrounds ponds which serve as primary water supplies to Augusta and Winthrop. The use of Carlton and Narrows Ponds as water supplies, and the fact that these ponds have a low capacity for assimilating pollutants necessitates additional protective measures around them. Since runoff from agricultural and development activity is apt to cause water quality problems, more stringent controls on such activities are applied to land areas within 1,000 horizontal feet of the shorelines of these ponds and the stream linking them.

A. The following uses are permitted by right:

1. Open space uses
2. Earth-moving less than 10 cubic yards
3. Signs

B. The following require a Codes Enforcement Officer permit:

1. Single-family dwelling, including mobile home
2. Two-family dwelling
3. Earth-moving 10 to 25 cubic yards
4. Timber harvesting or clearing of land
5. Temporary piers and docks
6. Individual, private campsites
7. Accessory structures
8. Uses similar to these uses

C. The following uses require a Conditional Use Permit from the Planning Board:

1. Agriculture or livestock keeping
2. Earth-moving greater than 25 cubic yards
3. Mineral extraction
4. Recreational facilities
5. Permanent piers and docks, breakwaters, causeways, and bridges
6. Essential services
7. Home occupations
8. Uses similar to these uses

D. [reserved]

E.. The dimensional requirements of the Zoning District are as follows:

- | | |
|----------------------------------------------------------------------------------------------------------------------|----------------|
| 1a. Minimum lot size (sewered) | 60,000 sq. ft. |
| 1b. Minimum lot size (non-sewered) | 80,000 sq. ft. |
| 2. Minimum road frontage | 150 feet |
| 3. Minimum shore frontage | 200 feet |
| 4. Minimum shoreline setback | 100 feet |
| 5. Minimum road setback | 40 feet |
| 6. Minimum sideline setback | 20 feet |
| 7. Minimum rearline setback | 20 feet |
| 8. Maximum building height | 35 feet |
| 9. Maximum impervious area | 20 percent |
| 10. Setbacks from the public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] | |

3.3. Shoreland Zoning District

The Shoreland Zoning District covers land areas within 250 feet of major lakes and ponds of Winthrop, and provides for limited seasonal and year-round residential and recreational development. Development in shoreland areas, due to their proximity to surface waters, requires closer scrutiny than development situated further away in order to protect the water resources of Winthrop.

A. The following uses are permitted by right:

1. Open space uses
2. Earth-moving less than 10 cubic yards
3. Signs

B. The following require a Codes Enforcement Officer permit:

1. Single-family dwelling, including mobile home
2. Two-family dwelling
3. Earth-moving 10 to 25 cubic yards
4. Timber harvesting or clearing of land
5. Temporary piers and docks
6. Accessory structures
7. Individual, private campsites
8. Uses similar to these uses

C. The following uses require a Conditional Use Permit from the Planning Board:

1. Agriculture or livestock keeping
2. Earth-moving greater than 25 cubic yards
3. Mineral extraction
4. Recreational facilities
5. Campgrounds
6. Multi-family dwelling
7. Marina or boat yard
8. Public Buildings
9. Permanent piers and docks, breakwaters, causeways, and bridges
10. Home occupations
11. Essential services
12. Uses similar to these uses

D. [reserved]

E. The dimensional requirements of the Zoning District are as follows:

- | | |
|------------------------------------------------------------------------------------------------------------------|----------------|
| 1a. Minimum lot size (sewered) | 40,000 sq. ft. |
| 1b. Minimum lot size (non-sewered) | 80,000 sq. ft. |
| 2. Minimum road frontage | 100 feet |
| 3. Minimum shore frontage | 200 feet |
| 4. Minimum shoreline setback | 100 feet |
| 5. Minimum road setback | 40 feet |
| 6. Minimum sideline setback | 20 feet |
| 7. Minimum rearline setback | 20 feet |
| 8. Maximum building height | 35 feet |
| 9. Maximum impervious area | 20 percent |
| 10. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] | |

3.4. Wetland Protection Zoning District

The Wetland Protection Zoning District includes areas within 250 feet of freshwater wetlands. It provides for limited residential and recreational development while protecting water quality, natural habitat, and scenic values as required by the State of Maine Mandatory Shoreland Zoning Act.

A. The following uses are permitted by right:

1. Open-space uses
2. Earth-moving less than 10 cubic yards
3. Signs

B. The following require a Codes Enforcement Officer permit:

1. Single-family dwelling, including mobile home
2. Two-family dwelling
3. Earth-moving 10 to 25 cubic yards
4. Timber harvesting or clearing of land
5. Temporary piers and docks
6. Accessory structures
7. Individual, private campsites
8. Uses similar to these uses

C. The following uses require a Conditional Use Permit from the Planning Board:

1. Agriculture or livestock keeping
2. Earth-moving greater than 25 cubic yards
3. Mineral extraction
4. Recreational facilities
5. Campgrounds
6. Multi-family dwelling
7. Marina or boat yard
8. Public Buildings
9. Permanent piers and docks, breakwaters, causeways, and bridges
10. Home occupations
11. Essential services
12. Uses similar to these uses

D. [reserved]

E. The dimensional requirements of the Zoning District are as follows:

- | | |
|----------------------------------------------------------------------------------------------------------------------|----------------|
| 1a. Minimum lot size | 80,000 sq. ft. |
| 1b. Minimum lot size (sewered) | 40,000 sq. ft. |
| 2. Minimum road frontage | 100 feet |
| 3. Minimum shore frontage | 200 feet |
| 4a. Minimum shoreline setback | 100 feet |
| 4b. Minimum wetland setback | 75 feet |
| 5. Minimum road setback | 40 feet |
| 6. Minimum sideline setback | 20 feet |
| 7. Minimum rearline setback | 20 feet |
| 8. Maximum building height | 35 feet |
| 9. Maximum impervious area | 20 percent |
| 10. Setbacks from the public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] | |

3.5. Stream Protection Zoning District

The Stream Protection Zoning District includes land areas within 75 feet of a stream. Development of these areas is prohibited in order to provide an undisturbed buffer between developments and these important waterways, as required by the State of Maine Mandatory Shoreland Zoning Act.

- A.** The following uses are permitted by right:
 - 1. Open-space uses
 - 2. Signs
 - 3. Agriculture or livestock keeping
- B.** The following uses require a Codes Enforcement Officer permit:
 - 1. Earth-moving less than 10 cubic yards
 - 2. Timber harvesting or clearing of land
 - 3. Temporary piers and docks
 - 4. Individual, private campsites
 - 5. Uses similar to these uses
- C.** The following uses require a Conditional Use Permit from the Planning Board:
 - 1. Earth-moving greater than 10 cubic yards
 - 2. Permanent piers and docks, breakwaters, causeways, and bridges
 - 3. Recreational facilities
 - 4. Accessory structures
 - 5. Home occupations
 - 6. Essential services
 - 7. Uses similar to these uses
- D.** [reserved]
- E.** The dimensional requirements of the Zoning District are as follows:
 - 1a. Minimum lot size (sewered) 40,000 sq. ft.
 - 1b. Minimum lot size (non-sewered) 80,000 sq. ft.
 - 2. Minimum road frontage 150 feet
 - 3. Minimum stream frontage 200 feet
 - 4. Minimum stream setback 75 feet
 - 5. Minimum road setback 40 feet
 - 6. Minimum sideline setback 20 feet
 - 7. Minimum rearline setback 20 feet
 - 8. Maximum building height 35 feet
 - 9. Maximum impervious area 20 percent
 - 10. Setbacks from the public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

3.6. Rural Zoning District

The Rural Zoning District includes land presently characterized by low density development, forests, abandoned fields, and farms. The Zoning District seeks to protect the existing open space, forestry, agricultural and residential uses and to restrict commercial and industrial activity.

A. The following uses are permitted by right:

1. Open-space uses
2. Earth-moving less than 10 cubic yards
3. Signs
4. Agriculture or livestock keeping
5. Cemeteries

B. The following require a Codes Enforcement Officer permit:

1. Single-family dwelling, including mobile home
2. Two-family dwelling
3. Low impact commercial uses and structures
4. Earth-moving greater than 10 cubic yards
5. Timber harvesting or clearing of land
6. Accessory structures
7. Home occupations
8. Uses similar to these uses

C. The following uses require a Conditional Use Permit from the Planning Board:

1. Mineral extraction
2. Recreational facilities
3. Campgrounds
4. Multi-family dwelling
5. Medium-impact commercial uses
6. Automobile graveyards and/or junkyards
7. Public Buildings
8. Waste processing or disposal facilities
9. Mobile home parks
10. Intensive agriculture
11. Uses similar to these uses

D. [reserved]

E. The dimensional requirements of the Zoning District are as follows:

- | | |
|-----------------------------------------------------------------------------------------------------------------|-----------------------------|
| 1. Minimum lot size | 80,000 sq. ft. |
| 2. Minimum road frontage | 150 feet |
| 3. Minimum road setback | 40 feet |
| 4. Minimum sideline setback | 20 feet |
| 5. Minimum rearline setback | 20 feet |
| 6. Maximum building height | 65 feet |
| 7. Maximum impervious area: | 20 %, up to 20,000 sq.ft. * |
| 8. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] | |

* Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

3.7. Limited Residential Zoning District

The Limited Residential Zoning District includes areas currently developed primarily as residential neighborhoods and areas experiencing residential subdivision and construction in recent years. The District extends to land suited to such development due to physical site characteristics and proximity to town services, such as water and sewer, schools, fire protection, and other services. It provides areas limited primarily to single family housing.

- A.** The following uses are permitted by right:
 - 1. Open-space uses
 - 2. Earth-moving less than 10 cubic yards
 - 3. Signs

- B.** The following require a Codes Enforcement Officer permit:
 - 1. Single-family dwelling
 - 2. Earth-moving 10 to 100 cubic yards, and for earth-moving greater than 100 cubic yards in conjunction with initial residential construction on lots in subdivisions that have Planning Board approval.
 - 3. Timber harvesting or clearing of land
 - 4. Accessory structures
 - 5. Home occupations
 - 6. Uses similar to these uses

- C.** The following uses require a Conditional Use Permit from the Planning Board:
 - 1. Earth-moving greater than 100 cubic yards
 - 2. Recreational facilities, such as parks and golf courses
 - 3. Uses similar to these uses

- D.** [reserved]

- E.** The dimensional requirements of the Zoning District are as follows:
 - 1a. Minimum lot size (sewered) 40,000 sq. ft.
 - 1b. Minimum lot size (non-sewered) 80,000 sq. ft.
 - 2. Minimum road frontage 125 feet
 - 3. Minimum road setback 35 feet
 - 4. Minimum sideline setback 20 feet
 - 5. Minimum rearline setback 20 feet
 - 6. Maximum building height 35 feet
 - 7. Maximum impervious area 15 percent*
 - 8. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

3.8. General Residential Zoning District

The General Residential Zoning District exhibits residential and limited public and commercial development. It extends to additional areas in order to provide locations suited to mixed residential and commercial development on a limited scale, compatible with existing development and close to town services and utilities.

A. The following uses are permitted by right:

1. Open-space uses
2. Earth-moving less than 10 cubic yards
3. Signs

B. The following require a Codes Enforcement Officer permit:

1. Single-family dwelling, including mobile home
2. Two-family dwelling
3. Earth-moving greater than 10 cubic yards
4. Accessory structures
5. Timber harvesting or clearing of land
6. Home occupations
7. Uses similar to these uses

C. The following uses require a Conditional Use Permit from the Planning Board:

1. Agriculture or livestock keeping
2. Recreational facilities, such as parks and golf courses
3. Campgrounds
4. Multi-family dwelling
5. Public Buildings
6. Cemeteries
7. Low impact commercial uses
8. Mobile home parks
9. Uses similar to these uses

D. [reserved]

E. The dimensional requirements of the Zoning District are as follows:

- | | |
|------------------------------------------------------------------------------------------------------------------|-------------------|
| 1a. Minimum lot size (sewered) | 30,000 sq. ft. |
| 1b. Minimum lot size (no sewer, public water) | 40,000 sq. ft. |
| 1c. Minimum lot size (no sewer, private water) | 80,000 sq. ft. |
| 2. Minimum road frontage | 100 feet |
| 5. Minimum road setback | 35 feet |
| 6. Minimum sideline setback | 10 feet |
| 7. Minimum rearline setback | 20 feet |
| 8. Maximum building height | 35 feet |
| 9. Maximum impervious area | 25 % [*] |
| 10. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] | |

^{*} Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

3.9. Village Zoning District

The Village Zoning District includes the most highly developed areas in the Town. Development is more dense than in other areas and covers a broad mix of land uses including commercial, recreational, public and residential. This zoning district seeks to maintain the existing character and land use mix.

- A. The following uses are permitted by right:
 - 1. Open-space uses
 - 2. Earth-moving less than 10 cubic yards
 - 3. Signs
- B. The following require a Codes Enforcement Officer permit:
 - 1. Single-family dwelling, and multi-family dwelling*
 - 2. Low and medium impact commercial use
 - 3. Earth-moving greater than 10 cubic yards
 - 4. Accessory structures
 - 5. Home occupations
 - 6. Recreational facilities, such as parks
- C. The following uses require a Conditional Use Permit from the Planning Board:
 - 1. High impact use when allowed by Section 2.6.
 - 2. Light manufacturing in conjunction with retail sales of the products created
 - 3. Reestablishment of Industrial use subject to Section 2.6.
 - 4. Public Buildings
- D. [reserved]
- E. The dimensional requirements of the Zoning District are as follows:

	Main Street from Route 133 to Greenwood Ave All Other Areas	
1. Minimum lot size (sewered)	N/A	3,500 sq. ft.***
2. Minimum road frontage	20 feet	50 feet***
3a. Minimum shore frontage (residential or recreational uses)	100 feet	200 feet
3b. Minimum shore frontage (other uses)	100 feet	300 feet
4. Minimum shoreline setback	25 feet	25 feet
5. Minimum road setback	N/A	20 feet
6. Minimum sideline setback	10 feet*	10 feet
7. Minimum rearline setback	10 feet	20 feet
8. Maximum building height	65 feet	65 feet
9. Maximum impervious area	100 percent	50 percent**
10. Setbacks from public or private ways shall be measured from the edge of the right-of-way.		

*No side yard shall be required where a principal building shares or is to share a common wall (of material that would offer fire protection equal to or better than masonry construction) with a building on an adjacent lot, provided that there is emergency vehicle access to the rear of the building by public road or by right of way in common at least ten feet in width.

**Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

***Dimensions less than this may be waived on conditional review by the Planning Board.

3.10. Limited Commercial Zoning District

The Limited Commercial Zoning District establishes areas that are intended to allow both light commercial and residential uses. These areas may be located so as to provide a buffer zone between incompatible uses such as residential and intensive commercial or industrial uses, while still allowing some commercial uses to occur.

- A. The following uses are permitted by right:
 - 1. Open-space uses
 - 2. Earth-moving less than 10 cubic yards
 - 3. Signs * (see Article 4.1.5.)
- B. The following require a Codes Enforcement Officer permit:
 - 1. Single-family dwelling (excluding Type 1 manufactured housing)
 - 2. Two-family dwelling
 - 3. Home occupations
 - 4. Earth-moving greater than 10 cubic yards
 - 5. Accessory structures
- C. The following uses require a conditional Use Permit from the Planning Board:
 - 1. Multi-family dwellings
 - 2. Low and medium-impact commercial uses
 - 3. Low intensity agriculture
 - 4. Timber harvesting or clearing of land
 - 5. Public facilities
- D.
 - 1. Entities such as storage facilities and golf courses, etc., with potentially detrimental products, such as chemicals, pesticides, fuels, etc. will not be allowed.
 - 2. As approved by the Planning Board, appropriate buffers will be maintained and/or created between adjacent uses.
- E. The dimensional requirements of the Zoning District are as follows:
 - 1. Minimum lot size 80,000 sq. ft.
 - 2. Minimum road frontage 150 feet
 - 3. Minimum road setback 50 feet
 - 4. Minimum sideline setback 20 feet
 - 5. Minimum rearline setback 20 feet
 - 6. Maximum impervious area 20 percent
 - 7. Setbacks to parking areas, structures, and other impervious areas from public or private ways, shall be measured from the edge of the right-of-way.

3.11. General Commercial Zoning District

The General Commercial Zoning District establishes areas in Winthrop intended for high impact commercial uses, which may not be compatible with other land uses, such as residential or recreational activities. It is located so as to provide an area suited to such development due to site conditions, such as soils, slopes, proximity to highway access and public water and sewer services.

- A. The following uses are permitted by right:
 - 1. Open-space uses
 - 2. Earth-moving less than 10 cubic yards
 - 3. Signs
 - 4. Agriculture or livestock keeping
- B. The following require a Codes Enforcement Officer permit:
 - 1. Low impact commercial uses and structures
 - 2. Earth-moving greater than 10 cubic yards
 - 3. Timber harvesting or clearing of land
 - 4. Accessory structures
 - 5. Home occupations
 - 6. Uses similar to these uses
- C. The following uses require a Conditional Use Permit from the Planning Board:
 - 1. Recreational facilities, such as parks and golf courses
 - 2. Public Buildings
 - 3. Medium-impact commercial uses
 - 4. High-impact commercial uses
 - 5. Intensive agriculture
 - 6. Uses similar to these uses
- D. The following uses require a Conditional Use Permit from the Planning Board:
 - 1. Existing residential uses/accessory residential uses: Existing residential units will be considered legal nonconforming uses within this zone. It is noted that the intent of this zoning district is to promote commercial and industrial uses.

New residential uses will only be allowed based on the following criteria:

- 1. New residential units will be structurally attached to commercial/industrial buildings.
- 2. The residential portion of the developed structure(s) will be 49% or less than the total building area. Commercial/industrial use to occupy at least 51% of the building in either square footage or volume.
- 3. The discontinuance or vacancy of the commercial/industrial area may not be converted to residential use beyond allowed limits.
- 4. The residential portion of these mixed-use structures will not be exempt from phosphorus control planning and other measures necessary to protect water quality. [effective 10/13/99]

E. The dimensional requirements of the Zoning District are as follows:

1. Minimum lot size 40,000 sq. ft.
2. Minimum road frontage 150 feet
3. Minimum road setback 20 feet
4. Minimum sideline setback 20 feet
5. Minimum rearline setback 20 feet
6. Maximum building height 65 feet
7. Maximum impervious area 40 percent *
8. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

3.12. Industrial Zoning District

The Industrial Zoning District establishes an area in Winthrop intended for intensive commercial or industrial enterprises which may not be compatible with other land uses, such as residential, recreational, or agricultural activities. It is located so as to provide an area suited to development, due to site conditions such as soils, slopes, proximity to highway and railway access and public water and sewer services.

- A.** The following uses are permitted by right:
 - 1. Open-space uses
 - 2. Earth-moving less than 10 cubic yards
 - 3. Signs
 - 4. Agriculture or livestock keeping
- B.** The following require a Codes Enforcement Officer permit:
 - 1. Earth-moving greater than 10 cubic yards
 - 2. Timber harvesting or clearing of land
 - 3. Accessory structures
 - 4. Home occupations
 - 5. Uses similar to these uses
- C.** The following uses require a Conditional Use Permit from the Planning Board:
 - 1. Recreational facilities, such as parks and golf courses
 - 2. Public Buildings
 - 3. Low, medium, and high impact commercial uses
 - 4. Industrial uses
 - 5. Automobile graveyards and/or junkyards
 - 6. Waste processing or disposal facilities
 - 7. Intensive agriculture
 - 8. Uses similar to these uses
- D.** [reserved]
- E.** The dimensional requirements of the Zoning District are as follows:
 - 1a. Minimum lot size 40,000 sq. ft.
 - 2. Minimum road frontage 150 feet
 - 3. Minimum road setback 20 feet
 - 4. Minimum sideline setback 20 feet
 - 5. Minimum rearline setback 20 feet
 - 6. Maximum building height 65 feet
 - 7. Maximum impervious area 40 percent *
 - 8. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

* Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

3.13. Dimensional Requirements

Lots in all districts shall meet or exceed the following minimum requirements:

Zoning District	Min. Lot Size		Min. Frontage		Minimum Setback				Maximum	
	With Sewer	Without Sewer	Road	Shore	Road Street	Side Yard	Rear Yard	Shore line	Building Height	Impervious Area
Resource Protection	60,000	80,000	150'	200'	50'	20'	20'	100'	35'	20%
Public Water	60,000	80,000	150'	200'	40'	20'	20'	100'	35'	20%
Shoreland	40,000	80,000	100'	200'	40'	20'	20'	100'	35'	20%
Wetland Protection	40,000	80,000	100'	200'	40'	20'	20'	75' 100'	35'	20%
Stream Protection	40,000	80,000	150'	200'	40'	20'	20'	75'	35'	20%
Rural	80,000	80,000	150'		40'	20'	20'		65'	20%*
Limited Residential	40,000	80,000	125'		35'	20'	20'		35'	15%*
General Residential	30,000	40,000 80,000	100'		35'	10'	20'		35'	25%*
Village	Refer	to	W.Z.O.	Section	3.9	for	details			
Limited Commercial	80,000	80,000	150'		50'	20'	20'		35'	20%
General Commercial	40,000	40,000	150'		20'	20'	20'		65'	40%*
Industrial	40,000	40,000	150'		20'	20'	20'		65'	40%*
Village Commercial	3,500		50'	200 300	20'	10'*	20'	25'	65'	50%*

Setbacks from public or private ways shall be measured from the edge of the right-of-way.

*Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

Article 4 - Performance Standards

4.0. General Requirements

The following requirements shall apply to all districts;

4.0.1. Principal Building

If more than one principal building is constructed on a single lot, all dimensional requirements shall be met separately for each such principal building, not withstanding other provisions of this Ordinance. [setback exemptions for accessory structures were repealed effective 4/3/91]

4.0.2. Required Yard Spaces Shall Serve Only One Lot

No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

4.0.3. Visibility at Corner Lots

All corner lots shall be kept free of visual obstructions for a distance of twenty-five (25) feet measured along the intersecting street lines.

4.0.4. Building Height

Features of buildings and structures, such as chimneys, towers, ventilators, and spires may exceed the district's maximum building height, but shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this Ordinance. Chimneys on residential structures shall be exempt from the requirements of this paragraph.

4.0.5. Steep Slopes

Whenever slopes exceed twenty (20) percent in a Resource Protection, Public Water Supply, Shoreline, Wetland Protection, or Stream Protection Zoning District, and such slopes extend over a minimum land area of two (2) contiguous acres, then the total land area with steep slopes shall be designated as a Resource Protection Zoning District. In all other Zoning Districts, all proposed land use activities within such areas are considered Conditional Uses and may be allowed only upon authorization of a Conditional Use Permit by the Planning Board.

4.0.6. Land below the normal high water line of a water body or upland edge of a wetland and land within the right-of-way of roads serving more than two (2) lots shall not be included toward calculating minimum lot size.

4.0.7. 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 both sides after September 22, 1971.

4.0.8. 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 the Zoning District.

4.0.9. The shoreline setback requirements shall not apply to functionally water-dependent uses nor to structures which require direct access to the water as an operational necessity, such as docks.

4.0.10. Stairways, ramps, or similar structures providing access to a water body or wetland over steep slopes or unstable soils may be permitted by the Codes Enforcement Officer provided: that the structure does not exceed 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), and that no other reasonable access exists on the property.

4.1. Performance Standards for All Activities

The following standards shall apply to all activities in all districts:

4.1.1. Erosion Control

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following "best management practices":

4.1.1.1. Stripping of vegetation, soil removal, and regrading or other development shall be minimized as far as is practical, and shall be done in a way as to minimize erosion.

4.1.1.2. The duration of exposure of the disturbed area shall be kept to a practical minimum. Exposed areas shall be temporarily stabilized within one week from the time it was last actively worked by application of mulch, sod, seed, riprap, or other effective measures. Exposed areas shall be permanently stabilized within nine months of the initial date of exposure.

4.1.1.3. Until a disturbed area is permanently stabilized, sediment in run-off water shall be trapped on-site by the use of staked hay bale barriers or silt fence, or other acceptable methods as determined by the Codes Enforcement Officer.

4.1.1.4. The top of a cut or bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Codes Enforcement Officer or waived by the abutter in a document recorded in the Registry of Deeds.

4.1.1.5. Natural and man-made drainage ways and outlets shall be protected from erosion due to water flowing through them. Eroded areas shall be stabilized as specified by the Codes Enforcement Officer.

4.1.2. Nuisance Conditions

Noise, vibration, dust, smoke, odors, heat, glare, radiation, and waste disposal resulting from any use shall be kept to a practical minimum in order to avoid nuisance conditions.

4.1.3. Off-Street Parking and Loading Requirements [adopted 3/3/97]

The following standards shall apply to all new or expanded uses and structures:

4.1.3.1. Off-street parking shall be considered as an accessory use when required or provided to serve conforming uses located in any zoning district. Such parking for all uses shall be located on the same lot as the principal building or use of premises or within three hundred (300) feet measured along lines of public access. Such parking areas shall be held under the same ownership or easement as uses served and evidence of such ownership shall be required. However, establishments occupying or intending to occupy existing structures on Main Street, from the intersection of Main Street and Western Avenue to the intersection of Main Street and Greenwood Avenue, in the Village District may be exempted from this requirement when the establishment's lot does not contain sufficient area or is not within three hundred (300) feet of sufficient parking area. No off-street parking facility shall have more than two (2) entrances and exits on the same street, each of which shall be less than twenty-six (26) feet in width.

No parking space shall be placed within any required shoreline, side or rear setbacks. The shoreline setback for parking areas serving public boat launch facilities may be reduced to fifty (50) feet [except in the Village District where the setback is twenty-five (25) feet] if the Planning Board finds that no reasonable alternative exists.

4.1.3.2. Where several uses occupy a single structure or lot, the total parking shall be the sum of the needs of the individual uses.

4.1.3.3. In the event a particular building or use does not fit exactly into any of the categories listed in this section, the Codes Enforcement Officer shall apply the requirements of the category which he/she deems to be most closely analogous

4.1.3.4. Parking spaces shall be available for the parking of vehicles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of vehicles used in conducting the business or use (unless stated in the provisions below), and shall not be used for sale, repair or servicing of any vehicle.

4.1.3.5. Off-street parking in compliance with the following minimum requirements shall be provided and maintained for new construction, expansion of existing uses or structures, and changes of use. In case of expansion of an existing use or structure which is already lawfully non-conforming as to parking, additional parking must be provided for the expansion only and shall be in addition to the existing parking spaces which shall be retained. If a structure is demolished and a new structure with a different use is constructed, or a use ceases for a period of one year, the property shall meet the current parking requirements of the ordinance.

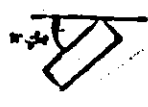

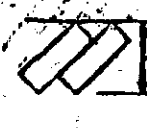
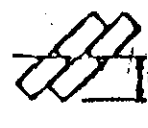
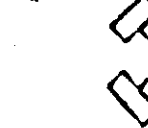
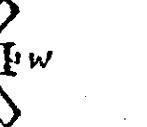
Dwellings	2 parking spaces per dwelling unit
Motels, Tourist Homes, Rooming Houses, Hotels, Bed & Breakfast Inns	1 parking space for each guest room; 1 parking space for each employee based on the expected average employee occupancy and, in addition, adequate parking based on the standards supplied in this section shall be provided for restaurants, meeting rooms, auditoriums and other activities which are accessory to the principal use.
Nursery School & Day Care Center	1 parking space for each adult volunteer or employee plus 2 parking spaces for child delivery and pickup
Schools	1 parking space for each adult employee plus 25 parking spaces for each 100 students or major fraction thereof of total enrollment

Nursing Homes	1 parking space per 3 beds plus 1 for each employee based on the expected average employee occupancy
Public Assembly-Indoor, Private Assembly, Religious Institutions, Commercial Recreation - Indoor	1 parking space for each 3 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed seats
Marina	Minimum of 30 parking spaces of which 25% will accommodate vehicles with trailers attached
Retail Trade, Hardware, Supermarket, Commercial Sales & Service	1 parking space for each 150 square feet, or major fraction thereof, of GFA (gross floor area) plus 1 parking space for each 1.2 employees
Bowling Alley plus	5 parking spaces for each bowling lane, 1 per employee
Restaurants: Standard	1 parking space for every 80 square feet of GFA with a minimum of 10 spaces plus 1 per employee
Restaurants: Fast Food & Drive Thru	1 space for every 70 square feet of GFA with a minimum of 10 spaces plus 1 per employee plus queuing spaces, if used, per Section 4.1.3.10.
Other Eating Establishments	With a maximum of 2000 square feet. of GFA a minimum of 10 spaces plus 1 per employee plus queuing spaces, if used, per Section 4.1.3.10.
Offices, Professional & Public Buildings, Banks, and Commercial use establishments	1 parking space for each 300 square feet or major fraction thereof of GFA. In no case will there be less than 1 parking space for every 1.5 employees
Commercial Recreation: Outdoor	Spaces equal in number to one-third of the maximum design capacity in persons

Golf Driving Range	1.5 parking spaces for each tee plus one for each employee
Outdoor Game & Athletic Courts	4 parking spaces for each court
Public Utilities, Manufacturing/ Processing Warehouse & Storage Facilities, Construction Services, Truck Terminal space	1 parking space for each 1.2 employees based on the highest expected average occupancy or 1 space for 1000 square feet. of GFA whichever is greater, plus one for each vehicle used in conduct of the enterprise
Miniature Golf Courses	3 parking spaces per hole, or 2 for each hole plus the requirements for all accessory uses, whichever is greater plus 1 per employee
Auto Service Station or Repair Garage	2 parking spaces for each enclosed bay and 1 space for each day shift employee
Medical, Chiropractic, Physical Therapy, Dental Clinic Veterinarian Hospital	3 parking spaces per examination or treatment room plus one space per employee
Gas Dispensing Facilities	2 spaces per gas pump plus one space per employee
Convenience Store	1 space per 200 square feet of GFA for the first 1000 square feet and 3 spaces per additional 500 square feet plus one space per employee
Handicapped Accessible Spaces	Any establishment which caters to or offers goods, facilities or services to the general public shall provide handicapped accessible spaces as defined in Section 4.1.3.6.d.(3)

4.1.3.6. PARKING DIMENSIONS

Standard stall dimensions 9' x 18.5'. Vehicle /trailer stall dimensions 9' x 37'.

Parking angle in degrees 9' Stall	Parallel stall width	Aisle to wall	Aisle to interlock	Aisle width One-way	Two-way
					
30 Degree	18.0	17.0	13.2	12.0	26.0
45 Degree	12.7	19.4	16.3	12.0	26.0
60 Degree	10.4	20.5	18.3	16.0	26.0
90 Degree	9.0	18.5	18.5	26.0	26.0

a) Aisle and stall dimensions shall be measured as shown in the diagram and tables above. Dimensions specified for one-way aisles apply only when diagonal parking is provided from each side of the aisle and all such aisles are designated as "One Way" with adequate signage and marking to direct the traffic movement.

b) Angled interlock parking shall only be used when a sufficient physical barrier is provided to prevent vehicular contact across the interlock.

c) Handicapped-accessible requirements

1) Handicapped-accessible spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. Curb ramps to the accessible route shall be provided at the end of all access aisles and will be constructed consistent with all state and federal laws and regulations.

2) Handicapped-accessible spaces shall contain the minimum required dimensions plus five (5) foot wide striped access aisle. Two accessible spaces may share a common access aisle. A "Wheelchair Van" space shall be a minimum of sixteen (16) feet wide and provide ninety-eight (98) inches of vertical clearance. Access aisles shall be cross-hatched.

3) Four (4) percent of the total required parking spaces, with a minimum of one space, shall be handicapped-accessible. At least one of these spaces shall be van-accessible. Each space shall be marked with the International

Symbol of Accessibility. In addition, "Wheelchair Van" signs shall be located at van spaces. All signs shall be located so they cannot be obscured by a vehicle parked in the space.

4) Instead of the designs specified in Subsection (3) above, the "Universal" Parking Space Design may be substituted for all required handicapped-accessible parking spaces. The Universal Parking Space design shall have a minimum length of eighteen and one-half (18.5) feet and a minimum width of eleven (11) feet with a common five (5) foot access aisle. Each space shall be marked with only the International Symbol of Accessibility.

d. Certificate of Legal Non-Conformance

1) The purpose of this section is to specify the conditions which will permit existing facilities, according to the requirements of this Ordinance, to achieve legal non-conformance with the parking requirements of this Ordinance in order to conform to the parking requirements for handicapped accessibility of federal, state and local laws.

2) If an existing facility decreases its existing parking spaces by a single parking space or up to four (4) percent of its existing required total number of parking spaces by either restriping and/or resigning only, the modification shall not be subject to site plan review, and upon application to the Codes Enforcement Officer, the owner of the facility shall be issued a Certificate of Legal Non-Conformance with respect to the requirements for number of parking spaces contained in Section 4.1.3.5. of this Ordinance.

3) If an existing facility decreases its existing parking spaces by a single parking space or up to four (4) percent of its existing required number of parking spaces by modifications, other than restriping and/or resigning, that require and receive site plan approval, upon application to the Codes Enforcement Officer, the owner of the facility shall be issued a Certificate of Legal Non-Conformance with respect to the requirements for number of parking spaces contained in Section 4.1.3.5. of this Ordinance.

4.1.3.7. Subject to site plan approval, the owner of any off-street parking, who provides for handicapped accessible parking in accordance with the requirements of the Maine Human Rights Act, 5 M.R.S.A. s/s 4551, et seq., shall provide proof of agreement, with the Winthrop Police Department, for the enforcement of handicapped parking restrictions in accordance with Article 17, Section 21, "An Ordinance Relating to Traffic and Parking Control" of the Winthrop Town Ordinances.

4.1.3.8. Where off-street parking is required or provided, the following construction requirements shall apply and a scaled plan for such must be submitted to the Code Enforcement Officer at the time of application.

- a) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided, design thereof shall be approved by the Code Enforcement Officer, where applicable.
- b) The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a sub-grade consisting of gravel or equivalent materials, well-compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.
- c) A system of surface drainage shall be provided in such a way that the water runoff shall not run over or across any public sidewalk or street.
- d) Where artificial lighting is provided, it shall be shaded or screened so that no light source or unreasonable glare shall be directly visible from outside the area and its access driveways.
- e) The owner shall provide forty (40) square feet for each patron parking space planned. This forty (40) square feet shall be used to provide curbed and paved divider strips between parking aisles in order to provide safe pedestrian access between rows of parking vehicles, proper traffic flow, lighting and landscaping. Where feasible, such divider strips shall be oriented at right angles to the main entrance of the principal building used in order to provide for maximum pedestrian convenience and safety.

4.1.3.9. Except in the Village Zoning District, parking areas with provision for five (5) or more vehicles and serving any non-retail commercial and industrial use shall be located, when practicable, in areas not visible from any public way.

4.1.3.10. Stacking or Queuing Space Standards for Drive-Thru Businesses:

Banks or other commercial uses: Minimum of eight spaces for the first drive thru window and two spaces for each additional window.

Drive Thru Restaurant: Eleven spaces for the drive-up window, with a minimum of five of these spaces designated for the ordering station.

Stacking or Queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with access to parking stalls.

4.1.4. Sanitary Provisions

The installation of all water supply systems and private sewage disposal systems in all Zoning Districts shall conform to the provisions of the Maine State Internal Plumbing Rules and Subsurface Wastewater Disposal Rules.

4.1.5. Signs

All signs shall comply with State Law. The following additional provisions shall apply to all on-premise signs in all Zoning Districts where permitted.

4.1.5.1. Location, Illumination and Size

- 1) No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording the sign may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
- 2) No sign shall be located within three (3) feet of a street line or other lot line.
- 3) Flashing, moving or animated signs are prohibited, except as provided in this subsection. Notwithstanding the provisions of Title 23 M.R.S.A. § 1914(11-A)(B)(1), changeable signs, as defined in Title 23 M.R.S.A. § 1914, are permitted only with the approval of the code enforcement officer and such signs shall meet the following requirements in addition to the dimensional requirements set forth in this ordinance. The display on each side of a changeable sign may be changed no more than once every ten (10) seconds.
- 4) No sign shall exceed twenty (20) feet in height.
- 5) Signs in the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, Stream Protection, and Limited Residential Zoning Districts shall not exceed two signs per premises at no more than six (6) square feet in area, each. Signs in the Rural and General Residential Zoning Districts shall not exceed three (3) signs totaling sixty (60) square feet, and no one (1) sign shall be larger than twenty (20) square feet. Signs in the remaining Zoning Districts shall not exceed three (3) signs totaling two hundred (200) square feet, and no one sign shall be larger than one hundred (100) square feet.

4.1.5.2. Types of Signs

- 1) Public traffic and directional signs and signs designating public or semipublic activities shall be permitted. Signs relating to public safety shall be permitted without restriction.
- 2) Residential name signs shall be permitted, provided such signs shall not exceed two (2) square feet in area, and shall not exceed two (2) signs per premises.

3) Residential users may display a single sign not over eight (8) square feet in area relating to the sale, rental, or lease of the premises. In the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, and Stream Protection Zoning Districts, such sign shall not exceed three (3) square feet in area, except for temporary "house for sale" signs.

4) Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet.

5) Signs relating to goods and services sold on premises shall be permitted, provided such signs shall not exceed two (2) signs per use.

6) Signs relating to goods and services not rendered on the premises are prohibited in the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, Stream Protection, and Limited Residential Zoning Districts.

4.1.6. Stormwater Run-off

All new construction and development shall be designed to minimize stormwater run-off from the site in excess of the natural pre-development conditions. Surface water run-off shall be minimized and detained on-site if possible or practicable. Where possible, existing natural controls, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce run-off and encourage infiltration of stormwater. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by the project. The natural state of watercourses, swales, floodways, or right-of-ways shall be maintained as necessary to ensure proper functioning.

4.1.7. Water Quality Protection

No activity shall locate, store, deposit, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that will run, seep, percolate, or wash into surface or ground waters or cause nuisances (such as objectionable shore deposits) or unsightliness, or be harmful to human, animal, plant, or aquatic life.

Commercial or industrial development and other similar intensive land uses may be required to provide a phosphorus control plan according to the current edition of the Department of Environmental Protection's manual, "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development".

4.2. Specific Activities

The following standards shall apply to specific activities in all Zoning Districts:

4.2.1. Agriculture

4.2.1.1. All spreading or disposal of manure shall be accomplished in conformance with the "Maine Guidelines for Manure and Manure Sludge Disposal on Land" published by the University of Maine and the Maine Soil and Water conservation Commission in July 1972 or subsequent revisions thereof. Agricultural practices not in conformance with these guidelines may be allowed by Conditional Use Permit.

4.2.1.2. There shall be no tilling of soil within one hundred (100) feet of the normal high water mark of any lake, pond, or stream, nor within twenty-five (25) feet of any tributary stream or wetland.

4.2.1.3. Manure shall not be stored or stockpiled within one hundred (100) feet of any lake, pond, or stream, nor within seventy-five (75) feet of any tributary stream or wetland. Within five (5) years of the effective date of this Ordinance, all manure storage areas within the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, or Stream Protection Zoning Districts must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision above within the five (5) year period. [amended 8/3/92]

4.2.1.4. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal, or storage of manure within the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, or Stream Protection Zoning Districts shall require a Soil and Water Conservation Plan, prepared with the assistance of the Kennebec County Soil and Water Conservation District to be filed with the Planning Board. Noncompliance with the Soil and Water Conservation Plan shall be a violation of this Ordinance.

4.2.1.5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet of the normal high water mark of any lake, pond, or stream, nor within twenty-five (25) feet of any tributary stream or wetland. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback, may continue provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

4.2.2. Campgrounds and Individual Private Campsites

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

4.2.2.1. Campgrounds without water-carried sewage facilities shall not be permitted.

4.2.2.2. Each recreational vehicle, tent or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways, in recreational vehicles and tenting areas containing approved water-carried sewage facilities. Land supporting typical wetland vegetation (such as cattails and rushes) and land below the normal high water mark of a water body shall not be included in calculating the minimum area.

4.2.2.3. All recreational vehicle, tent or shelter sites shall meet the setback requirements for structures contained in this Ordinance.

4.2.2.4. All campgrounds shall provide protection from the visual effects of the campground by establishing and maintaining along exterior lot lines a continuous landscaped area not less than twenty (20) feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective six foot high visual barrier.

Individual private campsites shall conform to the following:

4.2.2.5. Individual private campsites in the Resource Protection, Public Water Supply, Shoreland, Wetland Protection and Stream Protection Zoning Districts shall be limited to only one campsite on any nonconforming lot of record, or one camp site per thirty thousand (30,000) square feet.

4.2.2.6. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached.

4.2.2.7. The clearing of vegetation for the siting of a recreational vehicle, tent or shelter site in the Resource Protection Zoning District shall be limited to one thousand (1000) square feet.

4.2.2.8. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be submitted and approved by the Local Plumbing Inspector. Where disposal will be off-site, written authorization from the receiving facility or landowner is required. All wastewater, including gray

water, shall be discharged into an approved wastewater system as defined by State Rules.

4.2.2.9. When a recreational vehicle, tent or shelter site is placed on-site for more than 120 days per calendar year, all requirements for residential dwelling units shall be met, including installation of subsurface wastewater disposal system in compliance with the Maine Subsurface Wastewater Disposal Rules.

4.2.3. Mineral Extraction

4.2.3.1. Extraction operations (including sand and gravel pits) shall not be permitted within 75 feet of any property line or traveled way. (Also see: 30-A MRSA 3105 for minimum State standards for gravel pits).

4.2.3.2. Unless authorized under the Natural Resources Protection Act and/or Site Location of Development Act, no part of any extraction operation (including drainage and runoff controls) shall be permitted within one hundred (100) feet of the normal high water mark of any lake or pond, nor within seventy-five (75) feet of stream, tributary stream or freshwater wetland.

4.2.3.3. Extraction operations shall be deemed completed when less than one hundred (100) cubic yards of materials are removed within any consecutive twelve (12) month period. Within twelve (12) months of completion of operations, the operator shall stabilize the site as follows:

- 1) All debris, stumps, etc. shall be either removed and properly disposed of or buried onsite. Only materials generated onsite may be buried onsite.
- 2) The area shall be graded to a slope of two (2) horizontal to one (1) vertical or flatter.
- 3) Topsoil or loam shall be retained onsite to cover disturbed areas, and shall be seeded and/or planted with native vegetation. Additional topsoil or loam shall be brought onsite if necessary to completely stabilize all disturbed areas.
- 4) In the Public Water Supply, Shoreland, and Wetland Protection Zoning Districts, the applicant shall file a reclamation plan with the Planning Board which shall describe in detail what steps will be taken to stabilize the site.

4.2.3.4. Whenever ponds are left within the pit, a slope of four (4) horizontal to one (1) vertical or flatter, shall extend into the water at least sixteen (16) feet to insure that the pond will not be a hazard to the public.

4.2.4. Home Occupations

4.2.4.1. There shall be no exterior display, nor exterior storage of materials and no other visible indication of the home occupation or variation from the residential character of the principal building except for exterior signs as allowed.

4.2.4.2. Exterior signs shall not exceed four square feet in area and shall not exceed one sign per premise where allowed.

4.2.4.3. No traffic shall be generated in substantially greater volumes than normally expected in the neighborhood.

4.2.4.4. Off-street parking spaces in addition to those already required for a resident shall be provided for each non-resident employee and for the maximum number of customers at any one time.

4.2.4.5. No offensive nuisance, waste discharge, noise, vibration, smoke, dust, odors, heat, glare and/or radiation shall be generated.

4.2.4.6. Home occupations in the Resource Protection, Public Water Supply, Shoreland, Wetland Protection and Limited Residential Zoning Districts shall not involve non-resident employees nor display more than one exterior sign.

4.2.4.7. Home occupations in the General Residential, Rural, Village, Limited Commercial , General Commercial, and Industrial Zoning Districts may involve no more than 2 non-resident employees.

4.2.5. Livestock and Poultry Keeping

4.2.5.1. Farm buildings, sheds, feedlots, and fenced pens used intensively for the keeping of livestock (such as horses, cattle, sheep, poultry, goats and pigs) shall be located fifty (50) feet away from property lines, except where a property line abuts a public way, and one hundred (100) feet away from any existing abutting residences. Adverse conditions resulting from livestock keeping shall be handled under Section 4.1.2. Nuisance Conditions.

4.2.6. Mobile Homes

4.2.6.1. Individual Mobile Homes

All mobile homes shall be placed on a permanent masonry foundation or shall be enclosed by permanent skirting. Evidence of payment of state sales tax shall be submitted for any new manufactured housing prior to issuance of a Building Permit.

4.2.6.2. Mobile Home Parks

- 1) Mobile home parks shall be licensed by the State Manufactured Housing Board.**
- 2) Mobile home parks shall be subject to the Subdivision Ordinance for the Town of Winthrop and the State Subdivision Law.**
- 3) The park shall be served by public sewer and the minimum lot size shall be sixty-five hundred (6,500) square feet, notwithstanding the dimensional requirements for Zoning Districts under Article 3 of this Ordinance.**
- 4) The minimum road frontage for each lot within the mobile home park shall be fifty (50) feet; the minimum road setback for each mobile home within the mobile home park shall be twenty (20) feet.**
- 5) The minimum sideline and rearline setbacks for each mobile home within the mobile home park shall be ten (10) feet.**
- 6) A fifty (50) foot wide buffer strip, including individual lot setbacks shall be required along any mobile home park boundary abutting residential use if the per-acre density of the homes within the park is at least two times greater than:**
 - a) the density of residential development on immediately adjacent parcels of land, or**
 - b) if adjacent land is undeveloped, the maximum density allowed in that Zoning District.**

The first twenty-five (25) feet of the buffer strip, measured in from the exterior boundary of the mobile home park, shall consist of a continuous landscaped area containing evergreen shrubs, trees, fences, walls, berms, or any combination thereof which forms a visual barrier along exterior lot lines, except that driveways shall be kept open to provide visibility for vehicles entering and leaving. No structures, streets or utilities shall be located in the buffer strip, except where it is necessary for utilities to cross.

7) Public roads within the mobile home park shall be in accordance with the "Ordinance for the Construction, Reconstruction, Laying Out and Acceptance of Streets, Roads Ways or parts thereof, in the Town of Winthrop." Private roads shall meet the standards in the Subdivision Ordinance for the Town of Winthrop except where those standards are more restrictive than Title 30 MRSA Section 4358, Regulation of Manufactured Housing.

4.2.7. Multi-family Dwelling Units

4.2.7.1. Two-Family Dwelling Units

Lots for two-family units shall meet all of the dimensional requirements for single-family dwelling units.

4.2.7.2. Multi-Family Dwelling Units

Multi-family (3 or more) dwelling units shall meet the following criteria:

- 1) The minimum lot size required for a multi-family dwelling served by a subsurface wastewater disposal system or served by public sewer and located in the Shoreland, Public Water Supply and Resource Protection Zoning Districts shall be the product of the number of dwelling units on the lot times the minimum lot size required for single-family dwellings.
- 2) In all other Zoning Districts, the minimum lot size shall be the minimum lot size required for single-family dwelling and five thousand (5,000) square feet for each additional dwelling unit beyond the first unit.
- 3) For multi-family buildings existing prior to June 4, 1981 and located in the Village Zoning District with access to public water and sewer, the minimum lot size shall be ten thousand (10,000) square feet for the first unit and fifteen hundred (1,500) square feet for each additional unit, provided that there is no expansion of the existing structure.
- 4) The minimum shoreline frontage required for a multi-family dwelling in the Shoreland, Public Water Supply, and Resource Protection Zoning Districts shall be three hundred (300) feet and additional twenty-five (25) feet for each dwelling unit beyond the third unit; each multi-family dwelling shall meet the greater of the following setback requirements: fifty (50) feet from the side lot lines or one hundred (100) feet from any adjacent dwelling. Lots for multi-family dwelling units shall meet all other dimensional requirements.

- 5) Common shorefront recreational facilities such as beaches, docks, boat ramps, or picnic areas, shall be a minimum of seventy-five (75) feet from side lot lines. All multi-family development shall be visually screened from abutting lots by trees, evergreen shrubs, fences, or other materials as may be required by the Planning Board.
- 6) All multi-family dwellings or development located in the Shoreland, Public Water Supply, or Resource Protection Zoning Districts or which involve any type of common shoreland access, shall be limited to impervious area of no more than ten (10) percent of the lot area, unless all stormwater runoff is infiltrated on-site.
- 7) All multi-family dwellings shall be connected to a common water supply and distribution system.
- 8) All multi-family dwellings shall be connected to a public sewer system if, available, or to one or more common subsurface wastewater disposal systems designed in compliance with State Subsurface Wastewater Disposal Rules. An area of suitable soils shall be identified and reserved for a future replacement system.
- 9) Any lot used for multi-family dwellings or development which is
 - a) divided by the Shoreland, Public Water Supply or Resource Protection Zoning District and any other Zoning Districtor which
 - b) involves any form of common shoreland access,shall fully meet the more restrictive requirements specified for Shoreland, Public Water Supply, and Resource Protection Zoning Districts in this section.

4.2.8. Route 202 Development

In accordance with the policies of Winthrop's Comprehensive Plan, all commercial and industrial development in the Industrial Zoning District along Route 202 shall meet the following standards:

1. Within new subdivisions, there shall be only one combined access point with ramps to allow merging of traffic on Route 202.
2. All development shall maintain a twenty-five (25) foot buffer along Route 202, except for the driveway or access point.

3. For existing lots of record, there shall be only one access point per lot or one common access between two lots with ramps to allow merging of traffic on Route 202.

4. Any applicant shall demonstrate through a traffic safety impact study that the entrance/exit to the development as well as the development itself will provide for safe circulation of vehicles and will not interfere with the primary role of Route 202 as a traffic carrier. All projects shall conform with Town traffic control standards.

4.3. Development in Shore Areas

The following additional requirements shall apply to those areas of the Resource Protection, Public Water Supply, Shoreland and Wetland Protection Zoning Districts:

4.3.1. Common Shoreland Access

The use of any property for common shoreland access shall require a minimum shoreline frontage of three hundred (300) feet and an additional twenty-five (25) feet for each dwelling unit beyond the third unit using the common shoreland access. Any recreational facilities associated with common shoreland access, such as beaches, docks, boat ramps or picnic areas shall be a minimum of seventy-five (75) feet from side lot lines. All construction shall conform to all applicable state laws administered by the Department of Environmental Protection.

4.3.2. Clearing

1. Within a Resource Protection Zoning District abutting a lake or pond, there shall be no cutting of brush, trees or other vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high water line, except to remove safety hazards as approved by the Codes Enforcement Officer. Elsewhere in the Resource Protection Zone, clearing shall be limited to that necessary for permitted uses within the Zoning District.

2. Except as allowed in paragraph 1, above, and except to allow for the development of permitted uses, within the strip of land extending one hundred (100) feet inland from the normal high water line of a lake or pond and within seventy-five (75) feet of a wetland, stream or tributary stream, a buffer strip shall be preserved as follows:

a. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to freshwater wetland or tributary streams the width of the footpath shall not exceed ten (10) feet.

b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees is maintained. For the purposes of this section a "well distributed stand of trees" shall be defined as maintaining a score of twelve (12) or more points in any 25 foot by 25 foot square area, as determined by the following table:

Diameter of tree at 4 1/2 feet above ground	Points
2 - 4 inches	1
>4 - 12 inches	2
> 12 inches	4

Adjacent to a freshwater wetland or tributary stream, a "well distributed stand of trees" is defined as maintaining a minimum score of 8 per 25 foot square.

c. All existing vegetation and ground cover under three (3) feet in height shall be preserved, except to provide a footpath as described above.

d. Pruning of tree branches on no more than the bottom 1/3 of the tree is permitted.

e. Whenever the removal of a storm-damaged, diseased, unsafe or dead tree(s) results in the creation of a cleared opening, the opening shall be replanted with native tree species unless existing new tree growth is present.

3. At distances greater than one hundred (100) feet from any lake or pond and/or greater than seventy-five (75) feet from a freshwater wetland, stream or tributary stream, there shall be permitted selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter (measured at 4 1/2 feet above ground level) within any ten (10) year period, except to allow for the development of permitted uses. For the purposes of these standards, volume may be considered equivalent to basal area.

In no case shall cleared openings for development (including but not limited to principal and accessory structures, driveways, lawns and sewage disposal areas) exceed twenty-five (25) percent of the lot area, or ten thousand (10,000) square feet, whichever is greater, including land which has been previously developed.

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted under circumstances as described in the above paragraphs.

5. Fields which have reverted to primarily shrubs, trees or other woody vegetation shall be regulated under the provisions of this section.

4.3.3. Piers, Docks and Other Shoreland Construction

1. No causeway, bridge, marina, wharf, dock or permanent structure shall be constructed in, on, over or abutting on any great pond nor any fill deposited or dredging done therein without a permit from the Board of Environmental Protection and the Planning Board, or other appropriate agencies.

2. No causeway, marina, wharf, dock or other permanent or floating structure shall extend more than ten (10) percent of the width of any stream, measured at its normal high water elevation.

3. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area. It shall be constructed to prevent erosion and minimize adverse effects on fisheries and shall not interfere with existing beach areas.

4. No new structure shall be build on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

5. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high water line of a water body or within a wetland shall be converted to a residential dwelling(s).

4.3.4. Road and Driveway Construction

1. Roads and driveways shall be set back at least one hundred (100) feet from the normal high water line of a lake or pond and seventy-five (75) feet from tributary streams and freshwater wetlands unless no reasonable alternative exists as determined by the Planning Board. On slopes greater than twenty (20) percent, the setback shall be increased by ten (10) feet for each five (5) percent increase in slope over twenty (20) percent. The Planning Board may reduce the setback to no less than fifty (50) feet upon clear evidence from 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, installation of settling basins, ditch relief culverts and turnouts, and buffer strips. This paragraph shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer the shoreline due to operational necessity. Road crossings of watercourses shall be kept to the minimum number necessary.
2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection Zoning District except to provide access to permitted uses, or as approved by the Planning Board upon a finding that no reasonable alternative exists, in which case, the road and/or driveway shall be set back as far as practicable from the normal high water line of the water body, tributary stream or wetland.
4. Road banks shall be no steeper than a slope of two horizontal to one vertical, except where a road must be blasted through ledge, and shall be graded and stabilized in accordance with the performance standards for erosion control.
5. Road grades shall be no greater than twelve (12) percent except for short segments of less than two hundred (200) feet.
6. Bridges or culverts of adequate size and design shall be provided for all road crossings of watercourses which are to be used when surface waters are unfrozen. The requirements for a bridge or culvert may only be waived by obtaining a permit from the Planning Board.
7. In order to prevent water runoff from entering water bodies, roads shall be designed, constructed and maintained to empty onto an unscarified buffer strip that is at least fifty (50) feet plus two times the average slope wide and located between the outflow point of a ditch or culvert and the normal high water line of the water body, tributary stream or wetland. Where the road runoff discharges

onto the buffer, there shall be a diffuser, level spreader or riprap apron which will slow the water runoff and spread it out before it enters the buffer.

8. Ditch relief culverts, drainage dips and turnouts shall be installed to direct water runoff onto the buffer before the flow gains sufficient volume or head to cause erosion of the road or ditch.

a. The spacing of such measures shall be at intervals no greater than indicated in the table below:

Road 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 only be used in place of ditch relief culverts where the road grade is ten (10) percent or less.

c. On slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from the road centerline.

d. Ditch relief culverts shall be sufficiently sized and properly installed in order to function effectively, and their inlet and outlet ends shall be stabilized with appropriate materials.

9. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff controls shall be maintained on a regular basis to assure effective functioning.

4.3.5. Timber Harvesting

1. Within the strip of land extending seventy-five (75) feet inland from the normal high water line in a Resource Protection Zoning District there shall be no timber harvesting, except to remove safety hazards as determined by the Codes Enforcement Officer.

2. Except for areas as described in paragraph 1. above, timber harvesting shall be limited to selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period. In addition:

- a. Within one hundred (100) feet, horizontal distance, of the normal high water line of a water body, and within seventy-five (75) feet of tributary streams and wetlands, there shall be no clearcut openings and a well distributed stand of vegetation, including ground cover, shall be maintained.
- b. At distances greater than one hundred (100) feet of a water body and seventy-five (75) feet of a tributary stream and/or wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.
- c. A minimum of four (4) dead or dying trees per acre shall be left for wildlife to use for cavities, dens and food.

Timber harvesting operations exceeding forty (40) percent of the total volume may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed within fourteen (14) days of the Planning Board's decision.

- 3. No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water line of any pond, lake or stream. At distances greater than fifty (50) feet from the normal high water line of such waters and extending to the limits of the area covered by this Ordinance, all slash shall either be removed or be disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground.
- 4. Timber harvesting equipment shall not use stream channels as travel routes except when surface waters are frozen and the activity will not result in any ground disturbance.
- 5. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged. Such crossings shall be as straight as possible across the flow of water and at the narrowest point. (NOTE: A permit from the Department of Environmental Protection may be required for a stream crossing.)

6. Skid trail approaches to water crossings shall be located and designed to prevent water runoff from directly entering the water body or tributary stream. Water runoff shall be diverted off the trail into an unscarified strip of vegetation before the water crossing.

Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil, including skid trails within seventy-five (75) feet of the crossing shall be revegetated. However, the water runoff diversions shall remain in place.

7. Except for water crossings, skid trails, log yards and other sites where the operation of logging machinery results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high water line of any lake, pond, stream or wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward a water body or wetland, provided that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from a water body or wetland.

8. Where possible, skid trails and logging roads shall be located across the slope, rather than following the slope. Where possible, the grade of skid trails should not exceed twenty-five (25) percent and of logging roads, should not exceed ten (10) percent, except for short distances. Where the grade exceeds the recommended amount above, erosion controls should be followed in accordance with the Maine Department of Conservation's "Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations Best Management Practices". [June, 1991]

4.3.6. 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. 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 as well as recommendations for ways to counteract any existing soil limitations.

4.3.7. Essential Services

Where feasible, the installation of essential services shall be limited to existing public ways and service corridors. The installation of essential services is not permitted in a Resource Protection Zoning District except to provide service to a permitted use within the District or where the applicant demonstrates that no reasonable alternative exists, and in such circumstances, the services shall be located so as to minimize adverse impacts on surrounding uses and resources, including visual impacts.

4.3.8. Archaeological Sites

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, 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.

4.3.9. Seasonal Conversions

1. Seasonal conversions shall be prohibited in any Resource Protection Zoning District.
2. Within any Public Water Supply, Shoreland, Stream Protection or Wetland Protection Zoning District, seasonal conversions shall conform with all applicable requirements of State law and the Maine Subsurface Wastewater Disposal Rules.
3. A seasonal conversion shall be deemed to have been completed if the property owner has installed a subsurface wastewater disposal system in conformance with the approved design attached to the Seasonal Conversion Permit, or if the use of the residential structure is converted from seasonal to year-round use, as defined by State law.

4.3.10. Adaptive Reuse of Special Purpose Buildings [effective 8/11/99]

A commercial building constructed prior to August 11, 1988 and located in the Resource Protection Zone may be adapted to a use not otherwise allowed in the Resource Protection Zone ("adaptive reuse"), provided the following conditions are met:

1. The building was originally designed and constructed for a special or specific purpose.
2. The use for which the building was originally designed and constructed is no longer technically, economically or practically feasible.
3. The building is structurally sound.
4. The adaptive reuse will be accomplished with no enlargement or expansion of the building.
5. The adaptive reuse can comply with the applicable performance standards of this ordinance without the need for any expansion or enlargement of existing parking and driveway areas and without any increase in impervious surface.
6. The adaptive reuse is a low impact commercial use as defined in this ordinance.
7. Any new use will require a Conditional Use Permit from the Planning Board.

4.4. Clustered Residential Development

In approving any subdivision in any district, where single family dwellings are allowed, the Planning Board may allow lot sizes smaller than the minimum required by the Zoning District regulations provided that the following standards are met.

4.4.1. Clustered residential development shall be allowed provided that net residential density is not greater than would be allowed under traditional subdivision development. All Shoreland Zoning Districts may be counted toward the total lot size of the subdivision except areas zoned Resource Protection and property that is not zoned Resource Protection but meets the definition of Resource Protection as required by the State of Maine Mandatory Shoreland Zoning Act of 1990.

4.4.2. All clustered residential development shall be connected to the Town of Winthrop's Municipal Sewer System.

4.4.3. Minimum lot size shall be twenty thousand (20,000) square feet.

4.4.4. Minimum road frontage per lot shall be one hundred (100) feet.

4.4.5. All house lots in the actual clustered development must be located at least two hundred fifty (250) feet away from the seasonal high water mark of a great pond.

4.4.6. Dedicated open space land must be either:

- a. Encumbered by a conservation easement
- b. Conveyed to a non-profit conservation organization organized under Maine law; and/or
- c. Owned, in equal shares, by all lot owners in the development.

Its use shall be limited by easements or restrictive covenants to:

- a. Conservation
- b. Agriculture
- c. Forestry
- d. Non-intensive public outdoor recreational activities which do not require modifications or improvements to the land other than access points or trails, such as hiking, bird watching, nature study, cross-country skiing, snowmobiling and hunting.

The use of dedicated open spaces may be further restricted by Planning Board stipulations, restrictions imposed by the grantee of the conservation easement or fee interest in the dedicated open space, if appropriate, or by mutual consent of the common owners.

4.4.7. All clustered residential developments must meet the Common Shoreland Access, as per Section 4.3.1. of this Ordinance.

4.4.8. All other requirements of this Ordinance shall be met.

ARTICLE 5 - Administration

5.1. Enforcement

This Ordinance shall be enforced by the Codes Enforcement Officer appointed annually by the Town Manager.

5.2. Building or Use Permit

5.2.1. After the enactment of this Ordinance, no building shall be erected, altered, enlarged, demolished or moved in the Town of Winthrop without a written permit granted by the Coded Enforcement Officer. However, no permit shall be required for repairs or improvements not involving structural changes when the reasonable cost thereof is less than one thousand (1,000) dollars, nor when the structure or use is specifically exempted from permits by State law. Where additions, alterations, or improvements involve structural changes, ingress, egress, or sanitary facilities, a permit is required regardless of the amount of cost thereof.

The Codes Enforcement Officer shall be notified of any change in uses of buildings or premises. No person shall engage in any activity, use of land or use of structure which requires a permit in the Zoning District where such would occur without first obtaining the permit. All applications for building or use permits shall be submitted to the Codes Enforcement Officer on the forms provided.

5.2.2. Within seven working days of the filing of an application for a Building or Use Permit, the Codes Enforcement Officer shall approve, approve with conditions, deny or refer to the Planning Board for Conditional Use Permit all such applications. The Codes Enforcement Officer's decision shall be in writing on a form designed for the purpose and communicated directly to the applicant. Failure of the Codes Enforcement Officer to issue a written decision on any application for a Building or Use Permit within seven days from the date of filing of such application shall constitute denial of such application. One copy of the Codes Enforcement Officer's decision shall be filed in the Town Office.

(NOTE: Winthrop Utilities District must certify compliance with its requirements prior to issuance of a building permit to property on public sewer.)

5.2.3. No Building or Use Permit for a building or use on any lot shall be issued except to the owner of record thereof, or his authorized agent until such person has proven that the proposed construction or alteration of a building for structure shall comply in all respects with the provisions of this Ordinance or with a decision

rendered by the Zoning Board of Appeals or the Planning Board. Any application for such permit shall be accompanied by a plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on-site soils survey in accordance with the provisions of the Subsurface Wastewater Disposal Rules and Internal Plumbing Rules, the exact locations and size of all buildings or structures already on the lot, the location of new buildings and structures to be constructed, together with the lines within which all buildings and structures are to be constructed, the existing and intended use of each building or structure or such other information as may be necessary to provide for the execution and enforcement of this Ordinance.

5.2.4. Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Town Manager or the Codes Enforcement Officer. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee. If a person has a valid purchase agreement for the property, a letter of authorization is not necessary. A change in the ownership of the property shall not require the issuance of a new permit provided that the new owner complies with all aspects of the application and of the permit granted.

5.2.5. A Building or Use Permit issued by the Codes Enforcement Officer shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not fully completed within three (3) years.

5.2.6. The Codes Enforcement Officer shall have freedom of access at reasonable business hours for inspection of all parts of any building or structure regulated by this Ordinance.

5.2.7. No permit 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 any applicable State law, which the Town is responsible for enforcing.

5.3. Plumbing Permit Required

No Building Permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent in conformance with the Subsurface Wastewater Disposal Rules and Internal Plumbing Rules.

5.4. Fees

5.4.1. Building or Use Permits shall be issued upon a payment of a five (5) dollar fee.

5.4.2. Plumbing and Subsurface Wastewater Disposal Permits shall be issued upon payment of fees according to the Maine State Internal Plumbing and Subsurface Wastewater Disposal Rules, except as follows:

5.4.2.1. The permit fee for plumbing shall (6) dollars per fixture.

5.4.2.2. The permit fee for a non-engineered subsurface wastewater disposal system shall be one hundred (100) dollars for a complete system and seventy-five (75) dollars for a separate disposal area.

5.4.3. Variance appeals and administrative appeals to the Appeals Board shall be accompanied by a fifty (50) dollar fee.

5.4.4. Conditional Use Applications to the Planning Board shall be accompanied by a fifty (50) dollar fee, except as specified in Section 5.4.5.

5.4.5. Applications for subdivisions or for multi-family dwellings submitted to the Planning Board shall be accompanied by a fee of one hundred (100) dollars per dwelling unit or per lot proposed in the preliminary, final or approved subdivision plan, whichever is greatest.

5.4.6. (reserved for site plan review fees)

5.4.7. The Codes Enforcement Officer shall charge a double fee for any application which is submitted after the proposed use or construction has been initiated.

5.4.8. Earth-moving Permits for routine applications not requiring Planning Board approval the fee is ten (10) dollars.

5.4.9. Timber-harvesting Permits: For routine applications not requiring Planning Board approval the fee is ten (10) dollars.

5.4.10. Letters of Certification: All written letters of certification such as floodplain determinations, waiver of occupancy permits, compliance with zoning standards to banks, title companies, attorneys, surveyors, real estate agents and property owners the fee is ten (10) dollars.

5.5. Enforcement Officer

It shall be the duty of the Codes Enforcement Officer to enforce the provisions of this Ordinance. The Codes Enforcement Officer, on his or her own initiative or upon being notified in writing of a possible violation of this Ordinance, shall make or cause to be made, an investigation of the facts and an inspection of the premises where such violation may exist. Upon finding that any provision of this Ordinance is being violated, the Codes Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. A copy of such notice shall be submitted to the Town Office and be maintained as a permanent record.

The Codes Enforcement Officer shall order discontinuance of illegal use of land, buildings or structures, removal of illegal buildings, structures, additions, or work done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. Unless approved by the Codes Enforcement Officer, any deviation from the plans, facts and information contained within a permit application, and/or noncompliance with the terms and conditions of any permit granted to the applicant shall be considered a violation.

The Codes 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 of permits, appeals, court actions, violations investigated and found, and fees collected.

5.6. Legal Action and Violations

When any violation of any provision of this Ordinance shall be found to exist, as reported by the Codes Enforcement Officer, the Town Manager shall notify the Town Attorney, as designated by the Town Council, to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Winthrop.

5.7. Fines

Any person, firm or corporation being the owner or having control or use of any building or premises, or a landowner's agent or a contractor, who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor and on conviction shall be fined not less than one hundred (100) dollars or more than two thousand-five hundred (2,500) dollars. Each day such a violation is allowed to exist after notification shall constitute a separate offense.

5.8. Appeals and Conditional Use Permits

5.8.1. General Procedure

5.8.1.1. All appeals or applications for Conditional Use Permits shall be based upon a written decision of the Codes Enforcement Officer.

5.8.1.2. Administrative appeals and variance appeals shall be heard and decided upon by the Board of Appeals in accordance with the provisions of this Ordinance.

5.8.1.3. Applications for Conditional Use Permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance.

5.8.1.4. Administrative appeals shall lie from the decision of the Codes Enforcement Officer to the Board of Appeals to the Superior Court according to State law. Any aggrieved party may take an appeal to Superior Court within forty-five (45) days from the date of the Board of Appeals decision.

5.8.1.5. Conditional Use Appeals shall lie from the decision of the Codes Enforcement Officer to the Planning Board and from the Planning Board to the Superior Court according to State law.

5.8.2. Zoning Board of Appeals

5.8.2.1. Establishment

A Zoning Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.

5.8.2.2. Appointment and Composition

- 1) The Zoning Board of Appeals shall be appointed by the Town Council and shall consist of five (5) members and not more than two associate members, all of whom shall be legal residents of the Town, serving staggered terms of at least three (3) and not more than five (5) years. The Board shall annually elect a Chair from its members and may appoint a recording secretary from outside the Board, who shall be compensated for the duties performed. The Secretary shall keep the minutes of the proceedings of the Zoning Board of Appeals which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall be at least three (3) members attending.**
- 2) Neither a municipal officer nor his/her spouse may serve as a member or associate member of the Zoning Board of Appeals.**
- 3) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.**
- 4) A member of the Board may be dismissed for cause by the Town Council upon written charges and after public hearing.**

5.8.2.3. Powers and Duties

- 1) Administrative Appeals: The Zoning Board of Appeals shall hear and decide where it is alleged there is an error in any order, requirement, decision or determination by the Codes Enforcement Officer in the administration of this Ordinance. The action of the Codes Enforcement Officer may be modified or reversed by the Board by concurring vote of at least three (3) members.**
- 2) Variance Appeals: The Zoning Board of Appeals shall hear and decide requests for variances in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where a literal enforcement of this Ordinance would result in undue hardship. A financial hardship shall not constitute grounds for granting a variance. The term "undue hardship" shall mean:
 - a) That the property 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 of the neighborhood;****

c) That the granting of the variance will not alter the essential character of the locality, adversely affect adjoining or nearby properties, nor endanger the public health, safety and welfare, and,

d) That the hardship is not the result of action taken by the applicant or a prior owner.

3) Notwithstanding these criteria, the Board may grant a variance to a property owner for the purpose of making that property accessible to a resident individual with a disability as defined by 5 M.R.S.A. 4553. The Board shall restrict the variance solely to the installation of equipment or structures necessary for access and egress. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or the time the person with the disability lives on the property, pursuant to 30-A M.R.S.A. 4353, subsection 4-A.

4) As used in this Ordinance, a variance is authorized only for height, area and size of structures or size of yards or open spaces,. A variance shall be required for any addition or expansion to an existing, nonconforming structure if any part of the work will cause further non-conformance with the dimensional requirements. Establishment or expansion of uses or structures otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Zoning Board of Appeals shall grant a variance only by concurring vote of at least three (3) members and in so doing, may prescribe conditions and safeguards as are appropriate under this Ordinance.

5) A copy of all variance requests within a shoreland area shall be submitted to the Department of Environmental Protection (DEP) at least twenty (20) days prior to action by the Zoning Board of Appeals. Approved variances within the shoreland areas must be submitted to the Department of Environmental Protection (DEP) within seven (7) days of the decision.

5.8.3. Conditional Use Permits

5.8.3.1. Authorization

The Planning Board is hereby authorized to decide upon applications for Conditional Use Permits in accordance with State law and the provisions of this Ordinance.

5.8.3.2. Powers and Duties

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use Permits. No Conditional Use Permit shall be authorized unless specific provisions for such Conditional Use is made in this Ordinance.

5.8.3.3. Factors Applicable to Conditional Uses

The applicant shall have the burden of proving that the application is in compliance with the requirements of this Ordinance. The Planning Board shall approve or approve with conditions if it makes a positive finding on all of the following applicable criteria, based on the information presented, that:

1. The proposed use will maintain safe and healthful conditions.
2. The proposed use will be established and maintained in accordance with an approved erosion and sediment control plan.
3. Access to the site from existing or proposed roads is safe and adequate. The proposed use will not cause or aggravate undue traffic congestion.
4. The proposed use will have adequate water supplies to meet the demands of the proposed use and for fire protections purposes.
5. Adequate provision has been made for the disposal of all waste water and solid waste.
6. The proposed use will not cause water pollution and sedimentation.
7. The proposed use will provide for adequate management of stormwater runoff without adverse impact on the site, adjacent land, or water bodies.
8. The site design is in conformance with all flood hazard protection regulations, and any proposed construction or fill will not affect a water body's ability to store floodwater.
9. The proposed use will not have an adverse impact on spawning grounds, fish, aquatic life, bird and other wildlife habitat.
10. The proposed use will conserve shore cover, visual and physical points of access to lakes, ponds and streams and natural beauty.
11. The proposed use will not adversely affect the quantity or quality of ground water.
12. The proposed use will comply with all applicable performance standards in this Ordinance.
13. The proposed site design provides adequate buffers and on site landscaping to protect neighboring property from detrimental factors of the proposed development.
14. The proposed use will protect archaeological and historic resources as designated in the Comprehensive Plan.

5.8.4. Appeal and Conditional Use Permit Procedures

5.8.4.1. In all appeals cases, a person aggrieved by a decision of the Codes Enforcement Officer shall commence his/her appeal within thirty (30) days after a decision is made by the Codes Enforcement Officer. The appeal shall be filed with the Zoning Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the ground for the appeal. The burden of proof is the applicant 's responsibility.

In all Conditional Use applications, a person informed by the Codes Enforcement Officer that he/she requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose.

5.8.4.2. Following the filing of an appeal or application, and before taking action on any appeal or application the ZBA or Planning Board shall hold a public hearing on the appeal or application within thirty-five (35) days. The Codes Enforcement Officer shall notify the Planning Board, the Zoning Board of Appeals and the Town Manager at least seven (7) days in advance of the time and place of the hearing, and shall publish notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area.

5.8.4.3. In all appeals or applications, the Zoning Board of Appeals or Planning Board shall notify the appellant or applicant, the owners of all abutting property and the owners of all property within five hundred (500) feet of the property involved by regular mail at least ten (10) days in advance of the hearing, of the nature of the appeal or application and of the time and place of the public hearing. The Codes Enforcement Officer shall maintain a record of addressees.

5.8.4.4. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owners to receive a notice of public hearing shall not necessitate another hearing or invalidate any action taken by the Zoning Board of Appeals or Planning Board.

5.8.4.5. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

5.8.4.6. The Codes Enforcement Officer or a designated assistant shall attend all hearings and may present plans, photographs, or other material appropriate for an understanding of the application.

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

5.8.4.8. Within seven (7) days of the public hearing, the Zoning Board of Appeals or Planning Board shall reach a decision on an appeal or application and shall inform, in writing, the appellant or applicant of its decision and its reason thereof. All decisions shall become a part of the record and shall include a statement of findings and conclusions.

5.8.4.9. Upon notification of the granting of an appeal by the Zoning Board of Appeals, the Codes Enforcement Officer shall immediately issue a Building Permit in accordance with the conditions of the approval.

5.8.4.10. A variance or Conditional Use Permit shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted or the Conditional Use authorized.

5.8.5. Conditions Attached to Variance Appeals and Conditional Uses

5.8.5.1. Upon consideration of a variance appeal or Conditional Use Application, the Zoning Board of Appeals or Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of piers, docks, parking and signs; type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance.

5.8.5.2. In order to secure information upon which to base its determination, the Zoning Board of Appeals or Planning Board may require the applicant to furnish, in addition to the information required for a Building or Conditional Use Permit, the following information:

- 1) A plan of the area showing contours at intervals to be determined by the Zoning Board of Appeals or Planning Board and referenced to Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover.
- 2) A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.
- 3) Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- 4) Plans of buildings, sewage disposal facilities and water supply systems.
- 5) Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance. In evaluating each appeal or application, the Zoning Board of Appeals or Planning Board may request the assistance of the Kennebec Valley Council of Governments, Kennebec County Soil and Water Conservation District, Cobbossee Watershed District, and any other State or Federal agency which can provide technical assistance. The Board may require that an applicant pay any site review fees required by such agencies prior to a decision on an application.

ARTICLE 6

Construction of Language and Definitions

6.1. Construction of Language

In this Ordinance, certain terms or words shall be interpreted as follows:

The word **person** includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense; the singular number includes the plural, and the plural includes the singular; the word **shall** is mandatory, and the word **may** is permissive; the words **used or occupied** include the words "intended", "designed", or "arranged to be used or occupied", the word **building** includes the word "structure", and the word **dwelling** includes the word "residence", the word **lot** includes the words "plot" or "parcel". In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

6.2. Definitions

In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Accessory Use of Structure A use or structure of a nature customarily incidental and subordinate to those of the principal use or structure. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Adaptive Reuse The development of a new use for an older commercial building originally designed for a special or specific purpose.

Agriculture The use of land for the cultivation of a wide range of crops, including row and cover crops, pasture, fruit and orchard produce, ornamental and green house products; for raising poultry and producing eggs; for livestock production including, but not limited to, cattle, horses, swine, sheep and goats; and for bee-keeping; on a commercial basis.

Intensive Agriculture Livestock production involving more than fifty (50) animal units, as defined by the U.S. Department of Agriculture.

Aggrieved Person A party to a proceeding or a person whose interests are damaged or

adversely affected by a decision, an action, or a failure to act of another person or governmental body.

Alteration Any change, addition or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams, or girders.

Automobile Graveyard A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out or junked motor vehicles.

Billboard A sign, structure or surface larger than six (6) square feet which is available for advertising purposes for goods or services rendered off the premises, excluding directional signs.

Boathouse A non-residential structure designed for the purpose of protecting or storing boats for non-commercial purposes.

Building A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

Building Height The vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.

Campground Any premises established for overnight use for two or more parties for the purpose of temporary camping including, but not limited to, tents, recreational vehicles, or other shelters.

Channel A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Cluster Development A development controlled by a single developer on any size parcel of land which contemplates an imaginative, more compact grouping of residential housing units. Cluster developments treat the developed area as an entirety to promote flexibility of design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of common open space, and the retention of the natural characteristics of the land.

Codes Enforcement Officer A person appointed to administer and enforce this Ordinance.

Commercial Use The use of lands, buildings or structures, other than a "home occupation", the intent and result of which activity is the production of income from the

buying and selling of goods and/or services, exclusive of the rental of residential

buildings and/or dwelling units. Specific types of commercial uses are defined as follows:

Low Impact A barber shop, beauty shop, hair styling salon, small appliance or television repair shop, professional offices (accounting, consulting, insurance, legal, medical, realty, or veterinary), nursing and convalescent homes, and similar uses.

Medium Impact Retail sales with less than twenty-five hundred (2500) square feet of gross floor area and open no more than twelve (12) hours per day (with no sale of gasoline), instructional facilities serving fewer than twenty (20) students at any one time, and similar uses.

High Impact Any commercial use not otherwise defined or specified in this Ordinance.

To further define specific commercial uses, the following table shall be used as guidance:

Commercial Attributes	Low	Medium	High
Hours of Operation	8 hours	8-12 hours	12 hours
Impact on Abutters	none	slight	significant
Number of Customers	0-5/hr	6-25/hr	25+/hr
Duration of Visit	short	medium	lengthy
Peak Traffic Times	daytime only	daytime or evening	daytime and evening
Building Compatibility with Neighborhood	similar	slightly different	highly different
Restaurant seating	Less than 20	20-75	More than 75

Any tower or similar structure not exempted by provisions of Section 4 of the Winthrop Wireless Telecommunications Facilities Ordinance, and excepting Stealth Towers, shall be considered a commercial use.

Common Shoreland Access The use of any shorefront property to provide a point of access for the occupants of three (3) or more dwelling units, whether accomplished through ownership, lease, easement, or any other arrangement.

Conditional Use A use permitted only after review and approval by the Planning

Board. A Conditional Use is a use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purposes of this Ordinance. Such uses may be permitted if specific provision of such Conditional Use is made in this Ordinance.

Conditional Use Permit A permit authorized by the Planning Board for a Conditional Use. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this Ordinance.

Conforming Use A use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Constructed Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

Cultural Features Structures or features historically used by the community such as railroad tracks, churches, municipal buildings, etc.

Development Includes structures, parking areas, out buildings, and all other appurtenant facilities.

Dimensional Requirements spatial requirements for development, including but not limited to lot size, setbacks, and shore frontage.

District A specified portion of the municipality, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Driveway A vehicular access less than five hundred (500) feet in length serving no more than two lots.

Dwelling A fixed structure, containing one or more dwelling units.

Dwelling Units A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall not include mobile homes, trailers, or recreational vehicles.

Earth Topsoil, sand, gravel, clay, peat, rock, or other minerals.

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 systems; collection, supply, or disposal systems. Such systems may include towers, storage tanks, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm 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.

Eutrophication The process of nutrient enrichment of water bodies.

Excavation Any removal of earth or earth material from its original position.

Expansion of a Structure An increase in the floor area or volume of a structure, including all extensions such as, but not limited to, decks, garages, porches, and greenhouses.

Expansion of a Use The addition of months to the regular operating time of a use; or the use of more floor area or ground area devoted to a particular use.

Family One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel. Such unit shall not exceed five persons not related by blood or marriage.

Fast Food/Drive Thru Restaurant A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposable containers.

Filling Depositing or dumping any matter on or into the ground or water.

Floor Area (Gross) The sum, in square feet, of the horizontal areas of the floors enclosed by exterior walls (as measured from the interior faces of the exterior walls), plus the horizontal area of any unenclosed portions such as decks and porches.

Forest Management Activities Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation, or maintenance of roads.

Foundation The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts, or footwalls.

Frontage - Road or Street The horizontal distance between the intersections of the side lot lines with the front lot line.

Frontage - Shore The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline.

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 and inland waters and which cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, fish storage, processing and marketing facilities, marinas, and industrial uses dependent on water-borne transportation or requiring large volumes of water and which cannot reasonably be located or operated at an inland site. The definition does not include private boathouses but could include a boathouse associated with a marina.

Grade In relation to buildings, the average of the finished ground level at the center of each wall of a building.

Great Pond Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres, except where the latter is completely surrounded by land held by a single owner.

Gross Floor Area (GFA) The area in square feet of any applicable structure, utilized by the public, calculated by using the exterior dimensions thereof.

Height of a Structure The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

High Water Elevation, Normal Along lakes and ponds, the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial; and along rivers and streams, the highest elevation on the bank of a channel at which the water has left a definite mark. Specifically, normal high water elevations of major lakes and ponds in Winthrop is defined as follows in feet above Mean Sea Level, National Geodetic Vertical Datum:

Annabessacook Lake	170.2 feet
Berry Pond	241.5 feet
Cobbossee Lake	167.6 feet
Dexter Pond	241.5 feet
Little Cobbossee Lake	167.6 feet
Lower and Upper Narrows Ponds	172.5 feet
Maranacook Lake	212.0 feet
Wilson Pond	241.5 feet

Home Occupation A business, occupation, profession or trade which is conducted for gain or support entirely within a dwelling unit or structure accessory to a dwelling unit; which is carried on by a member of the family residing in the dwelling unit; which is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which does not change the essential residential character of the dwelling unit.

Impervious area Surface that is impermeable to water and prevents infiltration of water into the soil, including but not limited to roofs, pavement, and crushed rock or gravel, except those areas designed, maintained and functioning as permanent infiltration areas.

Individual, private campsite An area of land which is not associated with a camp ground, 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 gravel pads, parking areas, fire places or tent platforms.

Industrial The assembling, fabrication, finishing, manufacture, packaging or processing of goods.

Junkyard A yard, field or other area used as a place of storage for discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture; discarded, scrap and junked lumber; old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous and nonferrous material.

Lagoon An artificial enlargement of a water body, primarily by means of dredging and excavation.

Livestock Keeping The keeping of animals such as poultry, rabbits, goats, sheep, cows, or horses for the use of the immediate household and not for commercial purposes. The term livestock keeping does not include cats, dogs or other household pets.

Lot A parcel of land in single ownership, described on a deed, plot or similar legal document.

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.

Lot - back or rear A lot not located with frontage on a road or shoreline. Such a lot shall have a width equal to the frontage requirements of the Zoning District.

Lot - corner A lot with at least two contiguous sides abutting upon a street.

Lot - interior Any lot other than a corner lot.

Lot lines The lines bounding a lot as defined below:

Front lot line: On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from each street. On a so-called back lot the front line will be the direction of entry.

Rear lot line: The lot line opposite the front line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front line of the least dimension.

Side lot line: Any lot line other than the front lot line or rear lot line.

Lot width The horizontal distance between the side lot lines, measured at the setback line.

Lot of Record A parcel of land, a legal description of which or the dimensions of which are recorded on a document or may on file with the County Register of Deeds or in common use by Town or County Officials.

Lot, Shorefront Any lot abutting a water body.

Lot - Through Any interior lot having frontages on two more or less parallel streets, or between a street and a water body, or between two water bodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and water bodies shall be considered frontage, and front yards shall be provided as required.

Marina A shorefront commercial facility with provisions for one or more of the following: boat storage, boat docking or launching, or the sale of supplies and services for watercraft and their equipment and accessories.

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 commercial 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 transports the product removed away from the extraction site.

Mobile Home Park A parcel of land under unified ownership approved by the Town for the placement of three (3) or more mobile homes. A mobile home park is a subdivision as defined by the State Subdivision Law, and is subject to that law.

Multi-Family Dwelling A dwelling designed for occupancy by three (3) or more families, each living in its own separate quarters.

Net Residential Acreage The gross acreage available for development, excluding the area for streets or access and the areas which are unsuitable for development.

Net Residential Density The number of dwelling units per net residential acre.

Non-Conforming Building or Use A building, structure, use of land or portion thereof, existing at the effective date of adoption of amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance.

Open space use A use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat. Examples include forest and wildlife management.

Parking space A minimum area of one hundred sixty-seven (167) square feet, exclusive of drivers, aisles or entrances, fully accessible for the storage or parking of vehicles.

Piers Docks, wharves, bridges and other structures and uses extending over or beyond the normal high water line or within a wetland:

Temporary Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Planned Unit Development A development controlled by a single developer on a tract ten acres or larger in size for residential, commercial, or industrial (or any combination of the preceding) purposes. PUD's treat the developed area as an entirety to promote flexibility of design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of common open space, and the retention of the natural characteristics of the land.

Premises One or more lots which are in the same ownership and are contiguous or separated only by a road or water body, including all buildings, structures and improvements.

Principal building The building in which the primary use of the lot is conducted.

Principal use The primary use to which the premises are devoted, and the main purpose for which the premises exist.

Private water supply A dug well, drilled well, point or spring used as a source of drinking water.

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.

Public utility Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Public water supply A drinking water supply provided by the Winthrop Utilities District or Augusta Water District.

Recreational facility A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreation activities, excluding boat launching facilities.

Recreational vehicle A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent 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.

Restaurant An establishment where meals are prepared and served to the public for consumption for compensation

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 horizontal to one vertical or flatter.

River A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

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, the installation of wires and poles is located entirely upon the premises of the customer requesting service or upon a right-of-way, and the total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service, the extension (regardless of length) is accomplished only by the installation of wires to existing poles, or the extension is less than one thousand (1,000) feet when new poles or underground installation is needed.

Setback The minimum horizontal distance from a lot line or the normal high water line to the nearest part of a structure, road, parking space, or other regulated object or area. Setbacks from public or private ways shall be measured from the edge of the right-of-way.

Sign A name, identification, description, display, or illustration which is affixed to, painted, or represented, directly or indirectly upon a building, structure, parcel, or lot and which relates to an object, product, place, activity, person, institution, organization or business on the premises.

Standard Restaurant A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving of the meal.

Stealth Tower Any structure which allows for use of a pre-existing building, steeple, silo, or other object of sufficient altitude for commercial wireless telecommunications, and which:

1. does not increase the height of the original structure.
2. blends visually to a very high degree with the original structure.

Examples are: a facility using a steeple, which has the appearance of being part of the steeple; a facility atop a building which has the appearance of a chimney, vent, or other traditional use, and which is no higher than the highest point of the original structure.

Stream A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map (if not available, a fifteen (15) minute series topographic map) to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area.

Stream, tributary A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing water borne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. A tributary stream is separate and

distinct from a stream as defined by this Ordinance.

Structure Anything constructed or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, except a boundary wall or fence. In addition, anything constructed or erected with a fixed location on or in the ground, including structures temporarily or permanently located such as decks and satellite dishes. Temporary tents and screen-houses, which do not disturb existing buffer strips shall not be regulated as structures.

Subdivision The division of a tract or parcel of land into three (3) or more lots, as defined by 30-A M.R.S.A. 4401.

Substantially started Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Sustained slope A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Tower Any structure the primary purpose of which is to provide sufficient height for a commercial purpose, such as, but not limited to, telecommunications.

Trailer - utility A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer or snowmobile trailer.

Upland edge The boundary between upland and wetland.

Use The purpose of which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

Variance A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in undue hardship.

As used in this Ordinance, a variance is authorized only for height, area and size of structures or size of yards or open spaces. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in the adjoining Zoning Districts.

Vegetation All live trees (whether over or under four [4] inches in diameter, as measured at 4 1/2 feet above ground level), shrubs, ground cover and other plants.

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 or stream, whether under, through, or over the water course. Such projects include but are not limited to roads, fords, bridges, culverts, water lines, sewer lines and cables as well as maintenance work on these crossings.

Wetland A freshwater wetland as defined by this Ordinance.

Wetlands associated with great ponds and rivers Freshwater wetlands contiguous with or adjacent to a great pond or river and which during normal high water are connected by surface water. Also included are freshwater wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river.

Wetland - Forested A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

Wetland - Freshwater Freshwater swamps, marshes, bogs and similar areas other than forested wetlands which are:

1. Ten (10) or more contiguous acres, or of less than ten (10) acres and adjacent to a surface water body (excluding any river or stream or tributary stream) such that the combined surfaces area is in excess of ten (10) acres.
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and under normal circumstances does 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 this definition.

Yard The area of land on a lot not occupied by the principal building.

Front yard The area of land between the front lot line and the nearest part of the principal building.

Rear yard The area of land between the rear lot line and the nearest part of the

principal building.

Side yard The area of land between the side lot line and the nearest part of the principal building.