

2017

Waldoboro Selected Town Ordinances

Waldoboro (Me.). Municipal Officers

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ORDINANCE RELATING TO CURFEW

BE IT ORDAINED BY THE INHABITANTS OF THE TOWN OF WALDOBORO:

Section 1. It shall be unlawful for any child under the age of sixteen (16) years to be or remain upon any street, alley or lane, or in any public place after nine o'clock in the afternoon (9:00 P.M.) and before six o'clock in the morning (6:00 A.M.) unless such child is accompanied by a parent or some adult, in loco parentis, or unless such child is returning directly home from a school function or a supervised activity for children.


Section 2. It shall be unlawful for a parent, guardian or person, in loco parentis, of a child under the age of sixteen (16) years to permit such child to be or remain upon any alley, street or lane, or in any public place after nine o'clock in the afternoon (9:00 P.M.) and before six o'clock in the morning (6:00 A.M.) except under circumstances set out in Section 1 hereof.

Section 3. Any person violating any of the provisions of this Ordinance shall be subject to a penalty of not more than twenty dollars (\$20.00) for each violation.

This Ordinance was enacted at a Special Town Meeting held January 7, 1963 by authority contained in R.S. 1954, Chapter 91, as amended. (Title 30, M.R.S.A., Section 2151)

A True Copy:

Attest:



Town Clerk of Waldoboro

**Town of Waldoboro, Maine
Dog Ordinance**

Section 1. Purpose.

This ordinance is adopted in the exercise of home rule powers under Maine Constitution and 30-A M.R.S.A., Section 3001. The purpose of this ordinance is to regulate dogs in the Town of Waldoboro, including problems caused by dangerous dogs, dogs running at large, and barking dogs for the protection of the health, safety, comfort, convenience, and general welfare of the residents of the town, without unreasonably restricting owners and their dogs in their normal activities, while holding owners responsible, where it is appropriate to do so, for the deleterious conduct of their dog.

Section 2. Definitions.

As used in this ordinance, unless the text clearly otherwise indicates, the following words and phrases have the following meanings:

- A. Attack, Attacks, and Attacking: shall mean an unprovoked actual biting. They also mean, where they occur without provocation, jumping, chasing, growling, showing of teeth, or barking to the extent that any of these acts or combination thereof: by which a reasonable person receives an impression of impending or imminent physical harm by the dog to the person himself or herself to another person or persons, or to a domestic pet or farm animal.
- B. Dog: shall be intended to mean both genders of dogs.
- C. Owner: means any person or persons, firm, association, or corporation, or other legal entity amenable to civil process, owning, keeping, or harboring, or in the possession of, or have control of a dog, and includes the parent or parents, or guardian, of a minor who owns, keeps, harbors, or is in possession of a dog.
- D. Dangerous Dog: means the following, regardless of whether the dog is on or off the premises of its owner at the relevant time:
 - 1. A dog that attacks a person, regardless of whether it causes physical harm to the person provided at the time of the attack, the person is not trespassing with criminal intent on the owner's premises.
 - 2. A dog that attacks a domestic pet, farm animal, or wildlife and causes harm to the domestic pet, farm animal, or wildlife.
- E. Running at Large: means off the premises of the dog's owner and not under the control of the dog's owner, who is physically capable of controlling and restraining the dog by a leash, cord, chain, or by the "at heel" or other voice command control to which the dog is obedient.
- F. Prohibited Areas for Domestic Animals: identifies the areas prohibited to domestic animals.

Section 3. Nuisance.

Dangerous dogs, dogs running at large, and habitual barking dogs are hereby declared to be a public nuisance.

Section 4. Identification.

An owner shall ensure that the owner's dog, if two months old or older and out of doors, whether on or off the premises of the owner, unless confined within a secure enclosure or container, wears a collar or harness to which must be securely attached an identification tag with the owner's name, address, and telephone number (if any). Alternatively, an owner may provide for identification by having the dog wear such a collar that is at all times clearly and legibly embroidered with the information required by this section, or by having the wear such as embroidered collar, which in combination with one or more security tags shows the required information.

Section 5. Licensing.

All dogs older than six months shall be licensed in accordance with 7 M.S.R.A., §3922.

Section 6. Running at Large.

No owner of a dog shall cause or permit that do to run at large within the town. A dog shall be deemed to be under restraint, within the meaning of this ordinance, if it is controlled by a leash, cord, chain, or is "at heel" or otherwise under the voice or other command control of a person and is obedient to that person's command. Nothing in this section shall require the leashing or restraint of any dog, other than a dangerous dog, while on the owner's premises.

Section 7. Removal and Disposal or Dog Excrement.

No owner shall cause or permit any dog excrement to be cast or deposited by the animal upon any street, sidewalk or publicly owned property. An owner accompanying a dog on municipal property shall collect feces or vomitus deposited by the dog and dispose of the same in a sanitary lawful manner.

Failing to immediately remove and lawfully dispose of any dog excrement left upon any street, sidewalk or publicly owned property is a civil violation for which a forfeiture may be adjudged for each offense (see Section 12. Penalties).

This section shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

Section 8. Prohibited Areas for Domestic Animals.

The following areas are off limits to domestic animals at all times. Effective following vote to pass on April 28, 2016. Violations of this section is subject to penalties (see Section 13. Penalties)

Pine Street Landing
Rest area on Rt. 32
Marine Park

Section 9. Dangerous Dogs.

The Animal Control Officer, or any law enforcement officer, upon written complaint may investigate complaints of a dangerous dog, and upon investigation, may issue a civil violation summons for that dog. After hearing, the District Court may order the dog muzzled, restrained or confined to the premises of its owner or keeper or confined in a secure container, or may order the dog euthanized if the dog has killed or inflicted serious bodily injury on a person or has a history of prior assault. However, where a dog poses an immediate or continuing threat to the public, the Animal Control Officer may, after issuing a summons and before the court hearing, order the dog's owner or keeper to muzzle, restrain or confine the dog at a place determined by the Animal Control Officer, and on failure of the owner or keeper to comply with this order, may apply to the District Court for an *ex parte* order to take possession of the dog.

An owner who is given notice (need not be in writing) by the town's Animal Control Officer, any law enforcement officer, or any state official, that the owner's dog has bitten, is reasonably believed to have bitten any person, or has reasonably believed to have in any way injured any person so as to cause abrasion on the skin to that person, shall not without further written authorization by an officer or official, sell, give, or otherwise convey the ownership or possession of that dog, remove it, suffer, or permit that dog to be moved beyond the boundaries of the town, except to or under the care of a licensed veterinarian, the Animal Control Officer, or a law enforcement officer. An owner receiving such notice shall immediately place the dog under confinement for a period of at least ten (10) days and shall promptly obey all rabies detection and control directions of an Animal Control Officer, licensed veterinarian, law enforcement officer, or state official concerning that dog. An owner receiving such notice shall comply with applicable regulations of the Maine Commissioner of Human Services, and the Commissioner of Agriculture, and their authorized officials, employees, and agents in matters of rabies detection and control.

Section 10. Special Restraint of Dangerous Dogs.

An owner of a dog that has been determined to be a dangerous dog shall ensure that the dog is restricted at all times to the premises of the owner, except when being transported by a secure motor vehicle to a veterinarian or to some other premises of the owner, or to the custody of the Animal Control Officer or law enforcement officer. The owner of such a dog will ensure that the dog, when out of doors on the owner's premises, is either constrained within a secure enclosure or is fastened with a secured latch to a reinforced chain restraint, the length of which is such that the dog may in no event approach any closer than three (3) feet to any mail receptacle or entrance or exit to a house or other building, end or edge of a driveway, walkway, stoop, or stairs leading to an entrance, edge of a lawn, property boundary or public sidewalk, or home fill pipe or utility meter or point on the ground generally below any other wiring or piping. The owner shall ensure that the restraint is maintained and secure at all times the dog is out of doors on the owner's premises and not in a secure fenced in enclosure.

Section 11. Barking Dogs.

No owner of a dog shall permit or allow that a dog by loud, frequent, or habitual barking, howling, or yelping, disturb the peace of another person.

Section 12. Procedures on Violation.

The Animal Control Officer (ACO) or Police Department (WPD), on complaint of any person, or on his own initiative, may initiate prosecution for violation of this ordinance by filing a complaint with the Maine District Court for the division that includes the Town of Waldoboro and serving a summons and a copy of the complaint upon the owner. In the alternative, the municipal officers may, if they desire and if funds are available, engage and appoint counsel to prosecute the alleged violations.

The ACO or WPD shall quickly and fully investigate all known or suspected violations of this ordinance received from any citizen and keep a record thereof the ACO or WPD will report complaint and findings to the Chief of Police. The ACO or WPD is required to maintain a public file, located in the police department, of all complaints and findings. Nothing in this ordinance is intended to bar or limit the right of individuals to make written complaints concerning dangerous dogs pursuant to State Law, or bar or limit any law enforcement officer from proceeding to act upon such a written complaint in accordance with the State Law.

- A. Order of the court. If, upon hearing, the court determines that the ordinance has been violated, the court may impose an appropriate penalty. If the court determines that a dog is a dangerous dog, the court may order the owner to muzzle the dog, and to restrain it and confine it to the owner's premises; however, if the court finds that the dog has killed, maimed, or inflicted more than de minimis bodily injury upon a person, or upon a domestic pet or farm animal, or the court determines that the dog has a history of attacks, then the court should ordinarily order the dog to be euthanized. Such euthanasia shall be at the owner's expense.
- B. Failure to abide by a court order. An owner's failure to comply with an order issued pursuant to Section 11, Paragraph A, constitutes a violation of this ordinance, and may be punishable upon a new summons or as contempt, following issuance of a show cause order on affidavit of a law enforcement officer. If an order of euthanasia is not complied with by the time set upon by the court, the court may, upon application by the ACO or WPD or other person, upon notice to the owner, issue a warrant to the ACO or WPD to destroy the dog and make return of the warrant to the court within fourteen (14) days from the date of the warrant. The owner shall pay all costs of any supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog. A failure to pay such costs by anytime stated in the order of the court for making such payment constitutes a distant violation of this ordinance, which may also be punished on proceedings for contempt after issuance of a show cause order.
- C. Complaint for dogs presenting immediate threat to the public. After filing a complaint in District Court and before hearing, the dog shall be subject to muzzling, restraint, or confinement upon the owner's premises upon order of the law enforcement officer who filed the complaint to the owner, if that officer believes that the dog poses a threat to the public. The owner may prescribe the degree of restraint or confinement. Failure to comply shall constitute a distinct violation of the ordinance. Upon failure to comply, and after notice to the owner, the officer may apply to the District Court for an order of authorization to take possession of the dog that poses an immediate threat to the public and turn it over to care of a suitable person or organization, at the owner's expense. The Court in its final order shall include an order to the owner to pay such expense in a stated amount.

Section 13. Penalties.

For initial violation of this ordinance by an owner, the owner shall be ordered to pay a penalty of not less than fifty dollars (\$50) nor more than two-hundred dollars (\$200). In determining the amount to be forfeited, the court shall consider any evidence in mitigation, extenuation, or aggravation, it considers pertinent to the offense, including but not limited to the civility and degree of cooperation exhibited by the owner. For further violations the penalty shall be increased by a minimum of fifty dollars (\$50) above the immediate proceeding violation. All penalties awarded shall accrue to the Town of Waldoboro. An owner found to have violated this ordinance shall pay all fees and surcharges assessed or required by a court or court order or rule and shall pay court costs.

Section 14. Effective Date.

This ordinance shall take effect upon passage at any municipal town meeting.

Section 15. Severability.

Should any portion of this ordinance be found invalid for any reason by a court of competent jurisdiction, then all portions not found invalid shall remain unaffected and will continue in full force.

Section 16. Repeal.

This ordinance shall supercede the Town of Waldoboro Ordinance Regulating the Control of Dogs adopted March 4, 1968 and as amended June 10, 1971 and June 10, 2004, which is hereby repealed from and after effective date of the adoption of this ordinance which is April 28, 2016.

Certification of Municipal Officers

Attest to all:

Joanne C. Minzy, Chairman

Town Manager

Ronald L. Miller, Vice-chair

Clinton E. Collamore, Sr.

Abden S. Simmons

Katherine W. Winchenbach

Emergency Management Ordinance of the Town of Waldoboro

1. Short Title: This Ordinance shall be known and may be cited and referred to as the “Emergency Management Ordinance of the Town of Waldoboro”. Authorized under Title 37-B M.R.S.A, Section 782.

2. Definition: Emergency Management Director (EMD) shall mean the appointed town official responsible for performing the four phases of Emergency Management (preparedness, response, recovery and mitigation) and for liaison with the Lincoln County Emergency Management Agency.

3. Establishment: The Waldoboro Office of Emergency Management (OEM) and the position of Emergency Management Director for the Town of Waldoboro is hereby created. The Selectmen may appoint additional Staff members as needed.

4. Appointment, Term and Removal: The Town Manager shall appoint the EMD. This appointment shall be annual and made by July 1st of each year. The Town Manager may remove the EMD for cause.

5. Oath of the Emergency Management Director: Once the EMD has been appointed, the EMD shall take an oath of office before assuming any duties, pursuant to Title 30-A M.R.S.A., Section 2526.

6. Duties of the Emergency Management Director: The EMD Shall:

- a. Prepare and update a Hazard Risk and Vulnerability Assessment
- b. Prepare and maintain the Waldoboro Emergency Operations Plan
- c. Establish, organize, operate and maintain the Waldoboro Emergency Operations Center (EOC).
- d. Develop all town emergency plans and procedures.
- e. Coordinate with Lincoln County and Maine EMA offices.
- f. Coordinate with local American Red Cross (ARC) and SAD 40 School Superintendent.
- g. Establish EOC communications and warning systems.
- h. Maintain a list of disaster resources.
- i. Disseminate Disaster Preparedness information to town residents
- j. Report damage assessments to Lincoln County Emergency Management Agency (LCEMA)
- k. Submit applications for FEMA disaster funds and grants.
- l. Provide guidance in the annual Emergency Management budget and preparation of reports.
- m. Schedule training, drills, and exercises to train and test the local government's response capability.
- n. Encourage participation by staff members for Emergency Management training courses and seminars.
- o. Attend training courses, meetings and seminars and seminars at local, state and regional levels.

7. Membership of the Emergency Operations Center: Upon recommendation of the EMD and/or the Town Manager, the Board of Selectmen shall direct the EOC be established and manned. At the discretion of the Selectmen, Town Manager or EMD, the following town officials may be included on the EOC Staff.

- | | |
|--|-----------------------------|
| a. Selectmen | i. Town Clerk |
| b. Town Manager | j. Finance Director |
| c. Emergency Management Director | k. Tax Collector |
| d. Police Chief or designee | l. Code Enforcement Officer |
| e. Fire Chief or designee | m. Assessor's Agent |
| f. EMS Director or designee | n. Recreation Director |
| g. Public Works Director/Road Commissioner | o. Administrative Assistant |
| h. Animal Control Officer | |

8. Establishment of the National Incident Management System: The Town of Waldoboro hereby establishes the National Incident Management System (NIMS) as the municipal standard for incident management. This system provides a consistent approach for Federal, State and municipal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity. NIMS will utilize standardized terminology standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personal qualification standards,

uniform standards for planning, training and exercising, comprehensive resource management, and designed incident facilities during emergencies and disasters. All Waldoboro emergency and disaster responders will utilize the NIMS Incident Command System (ICS) for incident management.

9. Compensation: The EMD shall be compensated for duties rendered by an annual stipend as appropriated at Town Meeting.

10. Training: The EMD may take necessary training provided by the Lincoln County Emergency Management Agency (LCEMA), Maine Emergency Management Agency (MEMA) or Federal Emergency Management Agency (FEMA)

Given under our hands at said Waldoboro, Maine this first day of May A.D., 2007.

Carleton E. Johnson, Chairman

Rebecca B. Maxwell

Delia W. Mohlie

Ellen A. Winchenbach

Theodore M. Wooster
Board of Selectmen
Waldoboro, Maine

ATTEST: A true copy of the **Emergency Management Ordinance of the Town of Waldoboro** as certified to me by the Municipal Officers of Waldoboro on this first day of May A.D., 2007.



s/LINDA E. PERRY

.....
Town Clerk

Town of Waldoboro



Consumer Firework Ordinance

Section 1 Purpose and Authority

- A. Purpose: This Ordinance governs the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Waldoboro and of the general public.
- B. Title and Authority: This Ordinance shall be known as the “Town of Waldoboro Consumer Fireworks Ordinance” and will be referred to herein as ‘this Ordinance. This Ordinance is adopted pursuant to the enabling provisions of Maine Constitution, the provisions of 30-M.R.S. ss 3001, the provisions of P.L. 2011, Ch. 416, ss 5 (effective January 1, 2012), codified at 8 M.R.S. ss 223-A.

Section 2 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:

Consumer Fireworks: “Consumer Fireworks” has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provisions, 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 the purposes of 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 height of flight.

Section 3 USE AND SALE OF CONSUMER FIREWORKS.

- A. This Ordinance allows the purchase, selling, use, and possession of consumer fireworks within the Town of Waldoboro subject to the following requirements:
 - a. Consumer fireworks may not be used when the fire danger class, as designated by the Maine Forest Service, is a class 4 or 5 fire danger day.
 - b. Users must obtain a permit from the town office or the Fire Department before discharging any consumer fireworks.
 - c. Consumer fireworks may only be discharged on property owned by user.
 - d. Consumer fireworks may not be used on or within 50 feet of public owned land.
 - e. The use or discharge of consumer fireworks are prohibited in "Downtown Business District", "Historic Village District" and the "Route One Commercial B District" as defined by the Town of Waldoboro Land Use Ordinance.
 - f. In accordance with the "Noise" section of the Land Use Ordinance, to minimize noise and distraction, consumer fireworks may only be used during the hours of 5:00 PM and 10:00PM, with exceptions on Memorial Day, the Fourth of July and New Years Eve, when consumer fireworks may used 5:00 PM through 12:30 AM the following day.

Section 4 EXCEPTIONS.

- A. This Ordinance does not apply to a person issued a fireworks display permit by the State of Maine pursuant to 8 M.R.S. ss227-A.
- B. This Ordinance does not apply to a person utilizing pyrotechnic devices in pest dispersal operations in the agricultural production of blueberries.

Section 5 VIOLATION PENALTIES AND ENFORCEMENT.

- A. Penalty for Violation: For each violation of a provision of this Ordinance or other failure to comply with any of the requirements thereof. The person shall be subject to a fine of not less than \$100 and not more than \$2,500, plus attorney's fees and costs.
- B. Enforcement. This ordinance shall be enforced by the Town of Waldoboro Police Department.
- C. Injunction. In addition to any other remedies available at law or equity, the Town of Waldoboro, acting through its Board of Selectmen, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

- D. Seizure & Control. The Town may seize consumer fireworks that the Town has probable cause to believe are used in violation of this Ordinance and shall forfeit seized consumer fireworks to the State of disposal.

Section 6 EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption.

Section 7 SEVERABILITY.

Should any section, subsection or portion of this Ordinance be declared by any court of competent jurisdiction to be invalid for any reason, such a decision shall not be deemed to invalidate any other section, subsection or portion of this Ordinance.

Approved June 12, 2012 by Town Meeting.

Craig Cooley

Steve Cartwright

James Bodman

Attest to all:

John A. Spear, Town Manager

Theodore Wooster

Carl Cunningham

Attest: A true copy as certified to me by the Municipal Officers of Waldoboro, Maine on July 24, 2012.

Linda E. Perry, Town Clerk

Town Seal

Maine
Municipal
Association

General Assistance Manual

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Preface

This is the 13th revised edition of the General Assistance Manual. It has been prepared in a binder and loose-leaf format, with tabbed sections, so that the administrator can keep this manual, the General Assistance Ordinance, the DHHS Policy and supplemental materials together in an organized manner. Since DHHS's audits require municipalities to demonstrate the possession of a copy of its GA policy, along with a current municipal GA ordinance, this binder should serve administrators in keeping all required material organized and readily available.

Please note however, this manual does not contain a GA ordinance. Municipalities should place a copy of the GA ordinance they have chosen to adopt after the Chapter 14 tab. The ordinance was intentionally omitted because it could not be assumed that the municipality has adopted the most recent version of the MMA model ordinance. In addition, the DHHS Policy must also be inserted (after the Chapter 15 tab) once obtained from DHHS.

Consistent with the general style of all MMA Legal Services' manuals, this manual is intended to help the administrator interpret state law, while providing practical examples, problems and possible solutions. Furthermore, where necessary, legislative history and the reasoning behind certain laws and practices are provided in an effort to assist the user in reaching a better understanding of the subject matter.

It must be emphasized that this manual is not a "law book," and specific legal questions should be directed to DHHS, the municipal attorney or the MMA legal staff.

The information in this manual reflects General Assistance law effective as of October 9, 2013. All references to state law refer to Title 22 unless otherwise stated.

Legal Services Department
Maine Municipal Association
March 2014

Terms and Abbreviations Used in this Manual

Unless it is clear from the context that something else is meant, the following abbreviations, words, and phrases have the following meanings in this Manual:

A.2d or **Me.** refers to the series of Maine Supreme Judicial Court or Law Court cases reported for this State and court region. “A.2d” means the Atlantic region reports, 2nd series. “Me.” means the Maine reports. An example of a case cite would be 111 Me. 119, (1913) and 579 A.2d 58. The numbers “111” and “579” refer to the volumes of the Maine and Atlantic court reports. The numbers “119” and “58” refer to the pages on which the case begins. The number “1913” refers to the year of the court’s decision.

Et seq. means “and following sections.”

§ is a symbol that means “section.”

Law Court is the State of Maine’s Supreme Judicial Court.

Legislative body means the town meeting or the town or city council.

M.R.S.A. means the Maine Revised Statutes Annotated. An example of a reference to the Maine Statutes would be 30-A M.R.S.A. § 4401. The number “30-A” refers to Title 30-A. The number “§ 4401” refers to section 4401 of Title 30-A.

Municipal officers mean the selectpeople or councilors of a town, or the mayor and councilors of a city.

Municipal official means any elected or appointed member of a municipal government, such as the road commissioner, clerk, tax collector, treasurer or other person who takes an oath of office.

Ordinances are laws passed by the legislative body of a town, city or plantation.

P.L. means “public law” and is used as part of referring to a law passed by Maine’s Legislature, for example P.L. 1977, ch. 417.

Statutes as used in this Manual means the State laws passed by the Maine State Legislature; **federal statutes** are laws passed by the U.S. Congress.

Town or City Council as used in this Manual means a council granted legislative power by a charter.

Note: Copies of the Maine statutes may be available at the town office or city hall. The statutes, court cases, and court rules of procedure also are available at the State Law Library, University of Maine law school library and possibly at the county courthouse. They are also available online. The website address for the Maine statutes is www.mainelegislature.org/legis/statutes. To access Maine Supreme Court cases from 1997 to the present, go to www.courts.state.me.us. Some Superior Court cases are available at: <http://webapp.usm.maine.edu/SuperiorCourt/>.

CHAPTER 1 – Introduction to General Assistance

What is it?

General Assistance (GA) is “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.” 22 M.R.S.A. § 4301(5). The key terms in this definition are: immediate, unable and basic necessities.

GA is intended to provide **immediate** aid, thus assistance must be granted or denied within 24 hours of an application. It is for people who are **unable**—not unwilling—to maintain themselves or their families. Finally, GA is intended to help people with **basic necessities**: food, shelter, utilities, fuel, clothing, and certain other items, when they are essential.

What it is not.

GA 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.” 22 M.R.S.A. § 4301(5). Despite the stated intent that GA not be an ongoing source of income to an applicant, there is *no limitation on the number of times a person may apply for and receive GA*.

One of the most common misconceptions about GA is that it is only an emergency program and people cannot receive assistance after a certain period. Contrary to this perception, it should be noted that the state law also reads:

“This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that person has need and is found to be otherwise eligible to receive assistance.” 22 M.R.S.A. § 4301(5).

*In other words, there is **no limit** on the number of times people may apply for and receive general assistance if they are eligible.*

Finally, because GA is not a “categorical” welfare program, it is not limited to providing assistance to only specific groups or categories of people as is TANF,¹ to families with dependent children, or SSI for disabled people.

*Theoretically GA is available to **anyone**² in the state at any particular time who meets the eligibility criteria. GA is the program of last resort—it is the “safety net” intended to help those people who have no other resources. GA is the only comprehensive program to help people who are not eligible for any other assistance program.*

What is Required?

Ordinance, Notice of Hearing & Hearing

Each municipality is *legally **required** to administer a GA program* in accordance with the state law and an ordinance adopted by the municipal officers. 22 M.R.S.A. § 4305. **Prior to adopting the ordinance**, the municipal officers must hold a public hearing. Notice of the hearing should be posted publicly *at least seven days* before the hearing. Notice should be posted in the same places where the town meeting warrant is posted or other places where people commonly look for public notices. The notice must give the *date, place and time of the hearing and must contain the full text of the ordinance or indicate where copies are available for people to review (see Appendix 1 for sample notice).*

At the hearing the municipal officers should explain the purpose of the ordinance, give a brief summary of its provisions, and then open the public hearing for comments from the citizens. After people have had a reasonable period to discuss the proposed ordinance, the hearing should be closed and the municipal officers should proceed with their discussion.

After the municipal officers have considered the ordinance and any changes, one of the officers should make a motion that is seconded by another and voted upon by the majority. There must be a record of the vote. It is suggested that the clerk be present to record the minutes, the motion and the votes. After the ordinance has been adopted, the municipal

¹ Previously AFDC.

² With the passage of the Personal Responsibility and Work Opportunity Authorization Act of 1996 (Welfare Reform) some limitations apply to ‘illegal’ immigrants. Should this issue arise, please call DHHS for more information.

officers must send a copy of it, plus samples of any GA forms and notices the municipality uses, to:

Department of Health and Human Services
General Assistance Unit
State House Station #11
Augusta, ME 04333

Any amendments made in the future must be adopted in the same manner as an entire ordinance, and the amended parts of the ordinance must be sent to the Department of Health and Human Services (DHHS). ***Don't forget to adopt (by October 1st of each year or as soon as possible thereafter) the new Appendixes A-C*** containing the yearly GA maximums, which MMA sends to all municipalities. DHHS must also receive confirmation that the municipality has adopted the appropriate maximums each year.

(For further information see Chapter 11, Q & A, "Miscellaneous").

GA Program Public Notice

Each municipality ***must*** *post a public notice informing the citizens* that the municipality has a GA program administered in accordance with a local ordinance. The notice must also state when and where people may apply for assistance and where they may review the ordinance and the state's General Assistance statutes, as those statutes are made available to each municipality by DHHS for the purpose of citizen review. The notice must also inform people of the municipality's obligation to issue a written decision regarding eligibility within 24 hours of receiving an application for assistance, and the name of the municipal official applicants should contact for assistance in emergencies.

Depending on the size of the municipality, the administrator may want to post the Police Department's telephone number and inform people to contact the police if it is an emergency and assistance is needed at a time when the GA office is closed. The police, in turn, could contact the GA administrator. Finally, the posted notice must contain the **DHHS toll-free telephone number 1-800-442-6003**. The law does not specify where or in how many places notice should be posted, but DHHS regulation requires that the notice be posted so that it is visible 24-hours a day. Therefore, at a minimum, the notice should be posted on a window or glass doorway facing out at the municipal building where GA applications are taken. The same notice can also be placed on bulletin boards or other locations where people commonly look for public notices (*see Appendix 2 for sample notice*).

Standards

The purpose of the GA ordinance is to establish procedures for administering the program and standards of eligibility. *At a minimum, the ordinance **must** state:* how eligibility is determined and the type and amount of assistance applicants are eligible for; that **no one** may be denied the opportunity to apply; and that a **written** notice of the administrator's decision will be given within **24-hours** of the submission of an application whether assistance is granted or denied; and that applicants have the right to appeal the administrator's decision. 22 M.R.S.A. § 4305(3).

The ordinance describes what type of assistance a person may receive and the maximum amount the municipality will grant. Since December 23, 1991, with the enactment of 22 M.R.S.A. § 4305(3-B), GA law refers to—and GA ordinances contain—two types of “maximum levels of assistance”: an overall maximum level of assistance which is determined by law, and maximum levels of assistance for the specific basic necessities, which are determined by local ordinance.

The overall maximum level of assistance is a predetermined number of dollars that represents the maximum GA grant (except in certain emergency circumstances) that can be issued to a household with zero income. Effective October 2005 that predetermined number is supposed to be 110% of the federal Department of Housing and Urban Development (HUD) Fair Market Rent standards as published annually in the federal register. However, the maximum level of assistance has been “temporarily” changed on several occasions since 2005, due to a weak economy and budget constraints at the state level. Please review the most recent version of 22 M.R.S.A. § 4305 to ensure you are using the correct formula used to calculate the overall maximum level of assistance. As will be discussed in detail under the chapter covering the determination of eligibility (*see Chapter 2*), these overall maximum levels of assistance are used to determine an applicant's gross eligibility for GA. *The gap between the applicable overall maximum level of assistance and the applicant's income is referred to as the applicant's “deficit.”*

The other type of “**maximum level of assistance**” referred to in the law are the various maximum levels that the municipal ordinance creates for any specific basic necessity, such as food, housing, electricity, etc. These maximum levels must be reasonable and sufficient to maintain health and decency. 22 M.R.S.A. § 4305(3-A).

As another test of GA eligibility, in addition to determining the applicant's “deficit,” the maximum levels for the specific basic needs are also used as guides to determine a person's need and how much the applicant is eligible to receive. A detailed discussion of this test of

eligibility is found in Chapter 2 (see “The Deficit Test”). The specific “basic need” maximum levels are also used as caps on the amount of GA issued for any particular basic need.

For example, if an applicant was eligible for \$520 worth of assistance, but the applicable maximum for rent was \$430, the administrator would typically issue only \$430 over a 30-day period for rent, and the applicant’s remaining \$90 worth of assistance would be reserved for other basic needs, up to the particular maximum level of those other necessities.

There are two important aspects about maximum levels to keep in mind. First, the *levels must be reasonable and reflect the cost of living in the area*. For instance, if rents start at \$100 a week in your area, but the ordinance only allows \$70 that would be unreasonable. Secondly, if the maximum levels are reasonable, they will be valid provided that the *ordinance has provisions that permit the administrator to exceed the maximums in emergency cases*. For instance, if a family of five was about to be evicted in the middle of winter, the municipality might have to exceed its maximum levels, either for alternative housing or to pay the back rent, because to be without shelter in the winter would be an emergency.

Maximum Levels of Assistance & DHHS Regulation

Of all the statutorily defined basic necessities, there are two for which the maximum levels established by the local ordinance are potentially controlled by DHHS regulation: the standards of assistance for *food and housing*.

The DHHS rules establish as a rebuttable presumption that the U.S.D.A. Thrifty Food Plan and the HUD Fair Market Rental Statistics represent adequate levels of food and rental/mortgage assistance. The concept of a rebuttable presumption means that a municipality may adopt levels of food or housing assistance which differ from these levels of adequacy published by the federal government; but in order to do so the municipality must conduct a local fair market survey that demonstrates that the locally-developed standards are adequate.

It would be extremely difficult to develop a credible local fair market study that justified levels of food assistance which were lower than the Thrifty Food Plan. Rental rates, on the other hand, are tied to vacancy rates and the overall economy in such a way that it is entirely possible that local rental rates differ significantly from the HUD statistics. Fortunately, local fair market rental surveys are relatively easy to conduct and develop, and any municipality that feels the rental rates published by HUD are unreasonable should seriously consider

employing the “rebuttable presumption” option by generating a study of actual, local rental rates. This matter is discussed in further detail under “*Housing.*”

Who Administers GA?

State law requires every municipality to have a GA program (§ 4305). The people responsible for administering the program are the overseers. The overseers can be the municipal officers (selectpersons or council), or the municipal officers may appoint someone to administer the GA program. 22 M.R.S.A. § 4301(12). If no one is appointed to serve as the overseer, the municipal officers must assume the responsibility.

People appointed by the municipal officers to administer the program must be both sworn and bonded prior to assuming their duties. For the purpose of these bonding requirements, there is no need under Maine law for the designated GA administrator to be bonded as a separate municipal official as the municipal treasurer is bonded pursuant to 30-A M.R.S.A. § 5601 or as the municipality may require the clerk to be bonded pursuant to 30-A M.R.S.A. § 2651. The bonding of the GA administrator may be accomplished as part of a blanket fidelity bond covering a number of municipal officials.

Who May Apply for GA?

Perhaps this is the easiest thing to know about GA, because *anyone may apply*. People who are rich or poor, old or young, long-time residents or newcomers may all apply. Whether they are eligible is a different matter, but no administrator should assume that a potential applicant will not be eligible and refuse to let him or her fill out an application. The most dangerous mistake an administrator can make is to prejudge people and refuse to allow them to fill out an application because the administrator “knows” that the prospective applicants could not possibly be eligible. People wishing to apply have the right to request assistance in writing each time they apply. 22 M.R.S.A. § 4305.

When and Where May People Apply?

Regular Hours

Each municipality must establish a GA office or designate a place where people may go to apply for assistance. The specific periods of time when people may apply are, for the most part, left to the discretion of each municipality; however, the hours must be regular and reasonable. 22 M.R.S.A. § 4304. Reasonable means the administrator must be available a sufficient number of hours to process applications. If very few people apply, two hours a day

one day a week may be sufficient; if more people apply, the hours must be adjusted accordingly.

The administrator must post public notice of the day(s) and hours the administrator will be available to accept applications. If the administrator does not establish specific hours, he or she must accept applications *any time* a person wants to apply. If the municipality has established specific hours, for instance 6 p.m. to 8 p.m. on Mondays and Wednesdays, people may apply only during those hours on those days. If an applicant wanted to apply on Tuesday, he could be told to apply during the posted hours on Wednesday because people can be required to apply only during the designated hours—**except in emergencies**.

*In an emergency people may apply for assistance at **any time**.* It is the administrator's responsibility, not the applicant's, to determine if the request is an emergency. The administrator or designated person must be available 24 hours a day, seven days a week, to accept applications for emergency assistance. 22 M.R.S.A. § 4304.

Telephone Applications

In emergencies, the administrator must take applications over the telephone if the person cannot apply in person. Reasons why a person may need to apply by telephone include: illness or disability which prevents people from applying in person, lack of transportation, lack of child care, or an inability to send an authorized representative to apply in person. 22 M.R.S.A. § 4304. In the event an exception is made to the general rule of requiring an “in person” application, the applicant should be instructed that he or she will be required to stop by the municipal office as soon as possible thereafter (or at least by the time of next application) in order to sign an application. It is not unreasonable for the municipality to require that an applicant provide his or her signature on an application. It is also not unreasonable to generally require an “in person” application, conducting telephone applications only in exceptional cases. (*See Chapter 5 for further discussion*).

District Offices

State law allows two or more municipalities to join together to establish a district GA office. This is permitted when the number of applicants in the participating communities is too few to justify an office in each municipality. In order to establish a district office, the legislative body of each participating municipality must vote its approval, and the financial and administrative operation of the district office would be subject to the terms of an interlocal agreement established by the participating towns pursuant to 30-A M.R.S.A. § 2201 et seq.

The office must be located in a place that is accessible to any applicant in the district without having to pay telephone toll charges. If the district office is established, it must be open at least 35 hours a week and a person must be designated to take applications at all other times in the event of an emergency. Notice of when and where the administrator is available must be posted in each participating municipality. 22 M.R.S.A. § 4304.

CHAPTER 2 – Eligibility Criteria

Residency

One issue that has been a source of confusion over the years is residency. While a GA applicant's residency is something to take into consideration when taking an application, *it is **not a condition of eligibility***. In fact, the ***only purpose of discussing residency is to determine which municipality is ultimately responsible for providing GA to applicants.***

Residency is no longer the applicant's problem, as it was under the pauper settlement laws when indigent people could be shuttled between communities and sent back to the municipality where the applicants had their "settlement"—often their birthplace. The apparent reasoning behind settlement was that poor towns should only be required to provide support to their "own people." Under settlement, if people left one town and moved to another town they weren't considered settled until they had lived in the new town for five consecutive years without receiving assistance. If people needed assistance during the time they were trying to gain settlement in the new town, they had to receive it from the town where they were settled and they could be "removed" by their new town to their place of settlement for support. If people needed "immediate relief," the municipality where they were present had to provide it but could seek repayment from the town of settlement.

Maine courts were full of municipalities suing each other and squabbling over such arcane matters as whether people had been temporarily absent, people's personal habits, and whether "pauper supplies" had been given in good faith. Although Maine repealed settlement in 1973, it continued to have a durational residency requirement until 1976, when durational residency was also repealed.

Residency requirements in welfare laws rose to constitutional proportion in 1969 when the United States Supreme Court ruled that certain durational residency requirements were an *unconstitutional infringement on a person's right to travel* as guaranteed by the equal protection clause of the Fourteenth Amendment, and the due process clause of the Fifth Amendment. *Shapiro v. Thompson* (1969), 394 U.S. 618, 89 S.Ct. 1322. The *Shapiro* case concerned a challenge to the requirement adopted by most states that people be residents of a state for one year before being eligible to receive AFDC. The Supreme Court ruled that the one-year residency requirement was unconstitutional because it did not promote a "compelling governmental interest" and that there was no rational basis for making a distinction between longtime and new residents.

Durational residency requirements, which unreasonably restrict people from moving to or from a state by limiting their access to public benefits, are unconstitutional. Although the constitutionality of durational residency requirements which would act to restrict *intrastate* travel was never fully reached in the most pertinent Maine case. *Wyman v. Skowhegan*, 464 A.2d 181 (Me. 1983), it is probable that durational residency requirements would be found equally suspect, from a legal perspective, if people could be denied public assistance by various municipalities within Maine solely on the grounds of the applicants' length of residency. The issue of "right to travel" is no longer particularly relevant, however, because there is an express prohibition on durational residency requirements in the law (§ 4307(3)), and along with that prohibition there is the concept of "municipality of responsibility."

Municipality of Responsibility

Generally, Maine law states that municipalities have the responsibility to provide GA to all eligible persons who are:

- residents—people who are **physically present** in a municipality with the **intention of remaining there** and establishing a household; or
- non-residents—people (including transients) who apply for assistance who are not residents of that municipality or any other.

In short, there is ***no durational residency requirement***. If a person is applying for assistance in a municipality and he or she does not live there but isn't a resident anywhere else, that person is considered a resident of the municipality where the application is made and that municipality must grant GA if the person is eligible. Municipalities cannot refuse to grant aid to people merely because they are not residents. **Residency is not an eligibility condition!** 22 M.R.S.A. § 4307.

Example: Laura Green has lived in Litchfield all her life, where many members of the Green family live. One day Laura packed up and left Litchfield and moved to Shapleigh, where she applied for GA. Shapleigh felt certain that Laura was Litchfield's responsibility and told her she would have to apply in Litchfield. Shapleigh's decision was wrong because Laura was 1) physically present in Shapleigh, 2) intended to remain there to maintain or establish a home and 3) had no other residence...therefore, for the purpose of GA, Laura was a resident of Shapleigh.

Example: Alvin Eliot has been a transient most of his life. One summer he drifted through Maine, moving from town to town and working odd jobs. One week he received some assistance from Augusta, and a month later he was in Castine, where he applied for more

food assistance. Castine called MMA to find out if Alvin was the responsibility of Augusta or of Castine. MMA said that Alvin was the responsibility of Castine because he was applying in Castine and he was a resident of *no* municipality, and his case contained none of the *relocation* or *institutional* complications that make exceptions to the general residency rule (*see below*).

Example: Dawna Jones applied for GA in Presque Isle, even though she lived in New Sweden, because she was told that New Sweden didn't appropriate any funds for GA and because the administrator did not believe she was a resident. The Presque Isle administrator contacted the New Sweden administrator and told him each town had to have a GA program to help eligible people and diplomatically attempted to convince him to accept an application from Dawna Jones. Luckily, the New Sweden administrator agreed to take the application. If he had disagreed, Presque Isle could have suggested that New Sweden call the Department of Health and Human Services or MMA for advice. However, if New Sweden refused to take the application, Presque Isle would have been required to take the application and issue the assistance for which Ms. Jones was eligible because there was a *dispute between the municipalities*.

Disputes & Inter-municipal Cooperation

The only way the complexities of residency determinations can be dealt with efficiently is if the various municipalities within a residency issue communicate and cooperate with each other. The whole point of eliminating a durational residency requirement was to prevent applicants from being treated as volleyballs and being caught in the middle of a dispute between municipalities. State law is clear: *"nothing (in the law) may...permit a municipality to deny assistance to an otherwise eligible applicant when there is a dispute regarding residency."* 22 M.R.S.A. § 4307(5).

In other words, if two municipalities disagree about which town is financially responsible to issue GA to a person, one of the municipalities is required to assist the applicant if he or she is eligible. The eligible applicant must receive assistance; the municipalities can argue about who is responsible for paying the bill later. Ultimately, it is DHHS who resolves these disputes. 22 M.R.S.A. § 4307(5).

When there is a dispute regarding which municipality is required to provide the assistance sought, the municipalities involved should first seek guidance from MMA or DHHS.* If a resolution cannot be reached, the municipality in which the application is filed must provide the assistance and then seek a final determination from DHHS. DHHS must reach a decision regarding such a dispute within 30 working days; if the municipality that did not pay is

deemed to be responsible; then it has 30 working days from the decision to reimburse the municipality that did pay. If reimbursement is not made within those 30 days, DHHS will seek reimbursement from state funds (such as revenue sharing) that are due to the responsible municipality.

* **NOTE:** *Due to potential conflicts of interest, MMA Legal Services can involve itself or facilitate communications on such issues only if all municipalities involved agree to MMA's involvement.*

It should also be pointed out that § 4307(1) provides that “any municipality which... illegally denies assistance to a person which results in his relocation...shall reimburse twice the amount of assistance to the municipality which provided the assistance to that person.” Obviously, it is hoped that this type of financial penalty would not be necessary, but to the extent municipalities can self-police each other's actions and otherwise work cooperatively so that all eligible applicants get their assistance in an efficient manner, the less likely it will be that the Legislature will step in and place even stiffer penalties in the law.

Complications to Residency

Moving/Relocating

From time to time applicants may request assistance to help them move to another town. *Municipalities may help people relocate upon the **applicant's request** under certain circumstances.* It is illegal under Maine law, however, to send a person out of town solely to avoid granting assistance. For instance, it would be illegal for an administrator to tell applicants that there are not any jobs in town, that the town has no intention of supporting them for the rest of their lives, and that they should leave town, and then force them on a bus to another town or state!

It is legal, however, to help an applicant relocate to another town if he or she requests that type of assistance and if such assistance makes sense (i.e., relocating the applicant is the only way to provide him or her with shelter). Examples of when relocation would be reasonable include when the applicant is hired for a new job in another town and needs help to move, or when a family is evicted and there are no other suitable places to live in town. It is important to note the difference between the **authority** of a town to help an applicant relocate and an **obligation** of a town to relocate an applicant on demand. Under Maine GA law a municipality is not obligated to relocate an applicant, provided the basic necessities are available within the municipality.

It is also important that municipalities communicate with one another when GA is used for the purpose of relocation. A sample form which can be used by a “sending municipality” to notify a “receiving municipality” that a GA recipient has been relocated is found in Appendix 3.

If a municipality helps applicants move to another municipality, the municipality which provides the relocation assistance continues to be responsible for those applicants for the first **30 days** after relocation. The law extends this obligation **from 30 days to 6 months** if the relocation is to a hotel, motel or other place of temporary lodging in the other municipality (see “Complications to Residency—Institutional Residents” below). It is for this reason that municipalities should always avoid placing GA recipients (even temporarily) in temporary lodgings. In the event no permanent housing arrangement can be found, always call DHHS to see if other alternatives exist before placing a GA recipient in a temporary dwelling.

In other words, if Milbridge paid a family’s first month’s rent to help them move to Cherryfield, Milbridge would be responsible for assisting the family with other basic necessities for which the family was eligible (food, electricity, fuel, etc.) during the first month. Once recipients relocate to the new town they can apply for assistance in the new town, or if the town of former residence is not far and they have adequate transportation they can apply directly to the municipality of responsibility during the first 30 days. If it is impractical to apply in the town where they previously lived, the administrator in the new town must take the application, notify the municipality of responsibility and upon its approval grant assistance according to that town’s ordinance or have that town provide the assistance directly.

The most important factors to keep in mind regarding people who have received relocation assistance are:

- If applicants are applying for the *first time* in your town, ask them if the municipality where they lived previously helped them move, so you can determine if the other municipality is still responsible. Ask all applicants where they lived previously and whether they received GA.
- If applicants received GA to help them move, notify the other municipality **prior** to granting assistance; if you fail to provide such prior notice the responsible municipality does not have to reimburse you. 22 M.R.S.A. § 4313.

- If the municipality which is legally liable for the applicants' support refuses to reimburse your municipality without a good reason, you *must* assist the applicants and attempt to recover the expense from the other municipality another way, including court. (*In situations like this you can encourage the uncooperative town to call DHHS or MMA for clarification of the issue, or if negotiations are futile you can report the situation to DHHS.*)

It is important to emphasize that the **30-day** responsibility falling on the “sending town” **only** applies when the sending municipality has provided relocation assistance; there is no continuing responsibility if the applicant relocated without municipal assistance, except when the relocation was to an institutional setting (*see below*).

Institutional Residents

In 1983 the Legislature attempted to address the problem faced by municipalities that have one or more institutions in their communities to which people from surrounding areas come and later often need assistance. People who are in an *institution six months or less* are considered to be the responsibility of the municipality where they were residents immediately prior to entering the facility (*Example 1 below*); if they are there *more than six months* they are the responsibility of the municipality where the institution is located (*Example 2 below*). The only exception to this is if an applicant has been in an institution more than six months but has a residence in another town that the applicant has maintained and to which he or she intends to return. In that very rare circumstance, the applicant continues to be the responsibility of the municipality where that residence is located (*Example 3 below*), 22 M.R.S.A. § 4307(4(B)).

Example 1: Dan Gordon from Limerick entered a halfway house for substance abusers in Eliot. He had been there four months when he was told he could stay as long as he wanted but he would have to pay for his food. Mr. Gordon applied to Limerick for food assistance because that was where he lived prior to entering the rehabilitation program and he had been in the institution less than six months.

Example 2: Beverly Fogg and her two children had been in a shelter for abused families in Oakland for eight months. She felt strong enough to go out on her own, and started looking for apartments in Oakland and also Waterville, where she lived prior to entering the shelter. She found a place in Waterville and applied for GA there. Waterville told her that Oakland was responsible because she had been at the shelter longer than six months. The GA administrator called Oakland and discussed the situation. Oakland agreed that Ms. Fogg was the responsibility of Oakland.

Example 3: Joan Kaplan’s mother had been in a nursing home in Skowhegan for eight months. She was in the nursing home recovering from an operation because Joan could not give her the care she needed at the family’s home in Bingham. However, as soon as she recuperated, Joan’s mother was going to return to Joan’s home in Bingham where she had lived prior to going into the hospital. Unexpectedly, Joan’s mother developed pneumonia and died at the nursing home.

Joan did not have any money for the funeral so she applied for GA in Bingham. The Bingham GA administrator noted that Joan’s mother had been out of town in an institution for more than six months and therefore felt that Skowhegan should be responsible. Skowhegan felt that Bingham should be responsible because according to the doctor, Joan’s mother intended to return home and she would have returned if the pneumonia had not developed unexpectedly. As a result, Bingham should have assisted Joan because that was where her mother lived prior to her death and her home, to which she intended to return, was located there. This should be distinguished from a case where people enter a nursing home but have no home to return to despite their desire to “go home.”

Shelters for the Homeless

Shelters of various kinds are generally recognized as institutions (§ 4307(4)(B)). Individuals in those shelters who are applying for GA could be the responsibility—for up to six months—of the municipality where they resided immediately prior to entering the shelter **if** the conditions found at § 4307 are met (e.g., the municipality moves an applicant into another municipality to relieve itself of the responsibility for the GA recipient at issue). In addition, § 4313’s notification of the municipality of responsibility requirement must also be met.

The municipality of responsibility is a fairly straightforward determination for *domestic violence* and *substance abuse shelters* because the people in those shelters often had a clearly established residency immediately prior to entering the shelter.

Shelters for the homeless, however, present a unique challenge to municipal administrators with regard to the determination of municipality of responsibility. A resident of a homeless shelter often has a complicated residential history, and it is difficult to determine if the last town in which the shelter client was physically present was, in fact, that client’s “residence” as residency is defined in GA law.

As discussed above, there are two factors that determine whether a person is (or was) a GA “resident” of a town. First, the person must be (or must have been) **physically present** in the

municipality. Second, the person must have demonstrated some sort of **intention** to remain in that municipality.

For the purposes of determining residency in institutional circumstances, it is not enough merely to determine that the shelter client was physically present in Town X before entering the shelter. The shelter client's intention to remain in Town X must also be established. "Intention to remain" might be determined by evaluating how long the person resided in Town X; whether the person made any attempt to secure housing in Town X; whether there were reasons beyond the person's control, such as eviction or domestic violence, which caused him or her to leave Town X and ultimately end up in the homeless shelter, etc.

*It is important to note that transients are the responsibility of the municipality where they are **physically** present. Therefore, it is fair to say that **most** applicants applying for GA from a homeless shelter are the responsibility of the municipality where the shelter is located.*

Shelters for the homeless, like any institution, do not want to be perceived as a burden to their host municipality. One way to protect the host municipality is to make sure the GA requests coming out of the shelter are targeted to the responsible municipality so that the host municipality does not have to deal with GA applicants for whom there is no local responsibility.

Therefore, it is not unusual for shelter operators to assist shelter clients in filling out GA applications and sending those applications to the town the shelter operator feels is the municipality of responsibility. Administrators should carefully evaluate the issue of residency when receiving such applications, because it is possible that the shelter's interpretation of residency law conflicts with the interpretation given here. As is the case with any residency issue, DHHS is the ultimate arbiter.

Hotels, Motels & Places of Transient Lodging

In addition to what would commonly be understood as an "institution" (such as a hospital, nursing home, emergency shelter, etc.), § 4307(4)(B) defines a "hotel, motel or similar place of temporary lodging" as an "institution" when the municipality has provided assistance or otherwise arranged for a person to stay in such temporary lodging facilities. Therefore, if the municipality has provided assistance for an applicant to stay in a place of temporary lodging in another municipality, the "sending" municipality would become the "municipality of responsibility" for the first six months of the applicant's stay in those temporary facilities.

As a matter of DHHS General Assistance regulation, temporary housing is further defined as any facility that is licensed as an “eating and lodging place or lodging place as defined at 22 M.R.S.A. § 2491.” Therefore, if a municipality provides assistance for a recipient to move to a licensed rooming house in another municipality, the “sending” municipality would be responsible for that recipient’s GA needs for up to six months from the date of relocation, unless the recipient subsequently relocated to permanent housing, in which case the responsibility would drop to 30 days from the date of that second relocation. In any circumstance, a municipality that is providing out-of-town relocation assistance to any recipient would be well advised to make sure that the relocation is to permanent housing.

Example: Lilian Gould and her family applied for shelter assistance in Kenduskeag. There were no rental units immediately available in Kenduskeag, and so while Lilian was looking for an apartment, Kenduskeag met her short-term shelter needs by putting the family up in a motel in Bangor. A Kenduskeag selectperson received a call six weeks later from the Bangor General Assistance office informing him that the Gould family was seeking assistance to relocate from the motel into an apartment in Bangor. Kenduskeag carefully read § 4307, and correctly reasoned that Kenduskeag was the municipality of responsibility for the relocation because it had provided assistance for the family to live in an out-of-town motel. Kenduskeag also would remain responsible for 30 days after the relocation to the new apartment at which time Bangor would become responsible.

Initial vs. Repeat Applications

Before going into detail about the eligibility determination process, it will be helpful to review the differences between “initial” and “repeat” applicants insofar as the determination of a person’s eligibility is concerned.

Initial Application/Repeat Application

The underlying purpose of drawing a distinction between an initial applicant and a repeat applicant is to provide a person applying for GA the opportunity to learn about the rules of the program before those rules are applied. For example, most adult GA recipients who are unemployed and are physically and mentally capable of being employed are required to diligently look for work as long as they are receiving GA. If a repeat GA applicant is unwilling to make a good faith search for employment, that applicant can be disqualified from the program for 120 days. A person who never applied for GA before, however, would presumably not be aware of this rule and it would be unfair to apply a 120-day ineligibility status to an initial applicant for the reason that he or she had not been diligently seeking employment prior to seeking help from the town.

As another example, § 4315-A places a responsibility on all GA recipients to use their income on basic necessities, and establishes a procedure whereby income received into the recipient's household over the 30-day period prior to an application for assistance *and not spent on basic necessities* is still counted as income available to the household. This procedure, however, only applies to repeat applicants. The law presumes that the initial applicant was not aware of such a requirement.

Having some foreknowledge of the rules of the program is the premise underlying the concept of "initial applicant." While retaining that underlying premise, the law was changed with regard to the definition of "*initial applicant*." Since July 1, 1993, an "initial applicant" is very simply a person who has *never before* applied for GA in any municipality in Maine. *Any person who has applied for GA before*, even though it might have been two, three, four or more years ago, *is a "repeat applicant."*

Prior to this change in the law, an initial applicant was any person who had not applied for GA within the last 12 months. Because of this change, a significantly greater number of applicants will be "repeat" rather than "initial" applicants because they have a history of applying for GA. The result of this change in definition will be a larger pool of "repeat applicants" applying for assistance, and GA administrators can expect these repeat applicants to possess a general understanding of GA program requirements.

The primary effect of this law is that it requires all repeat applicants to report their use of income over the last 30 days, and in response to the information provided by the applicant, administrators are authorized to consider any "misspent" income as "available" income. For a more in-depth discussion of this procedure, please refer to the section of this chapter entitled "*The Availability of Misspent Income*." Furthermore, municipalities are authorized under this definition of "initial applicant" to withhold the issuance of emergency General Assistance to "repeat" applicants when those applicants could have averted the emergency with the appropriate use of their own income and resources. For a more in-depth discussion of limiting emergency assistance, please refer to the section of this manual dealing with emergency GA, particularly the section entitled *Misuse of Income* in this chapter.

In summary, *under current GA law, **initial** applicants are all people who have **never** before applied for General Assistance in any municipality in Maine. **Repeat** applicants are people who have, **at some time** in the past, applied for General Assistance to any town or city in Maine.*

Having laid out the current status of the law, it should be noted that there are a couple of irrational results stemming from an overly literal application of this change that should be avoided.

As has been mentioned, the primary effect of this change is to *hold all repeat applicants accountable for their spending decisions over the last 30 days*. Another common expectation of all repeat applicants is that they have adequately performed any work search obligations that were placed on them at the time of their last application. Typically, *any unemployed but otherwise employable recipient is required to make a **good faith effort** to look for a job a certain number of times per week between applications for GA*.

Because a “repeat” applicant is now defined as a person who has applied for GA at some time in the past, it is now the case that a person applying for assistance after being off the program for a number of years is a repeat applicant. As a repeat applicant, that person could be held responsible in a technical sense for documenting a work search effort spanning the several years since his or her last application. While it would clearly be appropriate to inquire about such an applicant’s actual work history during an extended period of time, and while it would also be entirely appropriate to inquire about such an applicant’s work search efforts over the last month, it would be neither reasonable nor appropriate to disqualify such an individual for failing to produce a documented work search effort spanning an extended period of time during which the individual was neither applying for nor receiving GA. This is an area of GA administrative practice that requires the application of good common sense and reasonableness.

Another irrational result that could occur from too zealously applying the concept of “initial applicant” concerns the definition of “applicant.” In MMA’s model General Assistance Ordinance, the definition of “applicant” clarifies that *a person is an applicant for General Assistance when the individual applies for GA or when an application is submitted to the administrator on an individual’s behalf*. A typical example of such a circumstance would be the husband or boyfriend who never comes into the office when his wife or girlfriend applies for assistance. Because the definition of an “initial” or “repeat” applicant has been amended by law, it is important to formally recognize that *people are still “applicants” even though they get other people to apply for GA on their behalf*.

Given that definition of an “applicant,” the MMA model ordinance goes on to clarify that a person will not be considered to be a repeat applicant if the last time that person applied for General Assistance was as a dependent minor in a household. This model ordinance language is designed to flush out the statutory standards in accordance with some semblance

of reasonableness. Adults who make an effort to avoid the face-to-face application process but still obtain and enjoy the GA benefits should be subject to the rules that govern all GA recipients. On the other hand, dependent children in a household could very well be unaware of the fact that the household is receiving GA, not to mention the various rules and responsibilities to which the adults in the household are subject. MMA's model GA ordinance, therefore, considers an *individual an initial applicant if he or she has never applied for GA before or if the only time he or she applied for GA was as a dependent child within an adult-supervised household.*

Eligibility–Need

If knowing who may apply for assistance is the easiest part of administering GA, knowing who is *eligible* is the most difficult. In order to determine an applicant's eligibility the administrator must have a thorough knowledge of the state law, DHHS policy and local ordinance. There are many variables that must be considered when determining a person's eligibility. *The first eligibility test is need.*

Need

The purpose of GA is to help people who are in need. "Need" is defined in the law as "the condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are *less than the maximum levels of assistance established by the municipality.*"

An applicant's "need," therefore, is a function of the maximum levels of assistance established in the municipal ordinance, and there are *two types* of maximum levels of assistance by which this analysis of need is calculated:

- an overall maximum level of assistance which is determined by law, and
- maximum levels of assistance for the specific basic necessities, which are determined by local ordinance.

Therefore, there are two tests of eligibility that must be calculated before a household's exact eligibility is known with certainty.

As a general matter of GA practice and for the purposes of this manual, these two tests of eligibility are respectively known as the "**deficit**" test and the "**unmet need**" test. *The deficit test is the difference between the applicant's household income and the appropriate overall maximum level of assistance. The unmet need test is the difference between the applicant's household income and the household's 30-day need, as guided by the ordinance maximum*

levels for the specific basic needs. Both of these tests rely on a determination of the applicant's household income.

A comprehensive discussion concerning the determination of income, types of income and other income issues can be found below in this chapter. For now, and for the purposes of determining an applicant's eligibility, it will be assumed that the precise household income has been calculated.

The Deficit Test

In an effort to control the overall cost of the GA program to the state and municipalities, the Legislature in 1991 enacted a provision of GA law § 4305(3-B) that created an “aggregate” or overall maximum level of assistance for every applicant/household; that is, the maximum amount of GA available to a household for a 30-day period if the household has zero income.

The law sets that overall maximum at the greater of: (a) 110% of Fair Market Rent (FMR) levels established by the federal Department of Housing and Urban Development (HUD); or (b) the prior year's calculated overall maximum as increased by the percentage change in the federal poverty levels over the past year. **Note**, however, that the Legislature changed the formula for calculating the overall maximum for the period July 1, 2012 to June 30, 2013 (see § 4305(3-C) and again changed this formula for fiscal years 2013-2014 *and* 2014-2015 (see § 4305(3-D)). Please refer to state statute to ensure you are using the most recent formula established for calculating the overall maximum level of assistance.

The **FMRs** are calculated by HUD based on accumulated market data concerning the average rent-plus-energy costs for housing in the state's 16 counties.

Although the overall maximums established by this law are based on federal fair market rent surveys, the GA administrator should not confuse these overall maximum levels of assistance with the maximum levels of assistance in the ordinance for housing. *The overall maximum level of assistance is a hard number that applies to the total GA grant for a 30-day period.*

As a result of the current law that establishes two tests of eligibility for GA, MMA has suggested two distinct names for the purposes of distinguishing these two tests of eligibility: the “deficit” test, and the “unmet need” test. The first screen or test of GA eligibility is accomplished by determining the applicant's deficit. *The deficit is a strictly **mathematical***

*subtraction of the applicant's **income** from the applicable **overall maximum** for that household size for the appropriate county as designated in the municipal ordinance.*

It should be noted that an applicant is not automatically eligible for his or her deficit. It is possible (although not typical) for an applicant to have a deficit of a certain amount but have no real need for that amount of assistance when the applicant's actual expenses are taken into account. For this reason, the deficit test should always be supplemented with the unmet need test, as described below. *The way GA law works, an applicant is eligible over the course of a 30-day period for the household deficit **or** the unmet need, **whichever is less**.*

The only circumstance by which an applicant can be found eligible for more than his or her deficit is when the administrator makes a finding that the applicant is facing an “**emergency situation**.” The determination of eligibility for emergency GA and issues surrounding emergency assistance are discussed below in this chapter. It should be noted here that the analysis of eligibility for emergency GA will necessarily involve more than a determination of the applicant's deficit. *The emergency analysis will require an analysis of the applicant's **unmet need**.*

The point to remember is that the overall maximum level of assistance upon which the deficit is based is a somewhat arbitrary number that may or may not reflect the amount of money a household needs to get by for 30 days. *The **unmet need**, on the other hand, more accurately reflects the household's actual requirements.*

The Unmet Need Test

The determination of need, whether it is an initial or subsequent application, is achieved by reviewing the *household budget*.

The household budget is simply an analysis of the household's **prospective 30-day financial need for basic necessities**. It is important to remember that the analysis of need is prospective; that is, the “needs analysis” looks forward over the next 30 days and does not, generally, include expenses or debts which have already been incurred.

The GA program is designed to pay **current bills** for **basic necessities**. Debts incurred by the applicant **prior to applying for GA** or debts incurred by the applicant for **non-essentials are not considered in the 30-day budget**. While it is possible the applicant is eligible for emergency GA to alleviate a legitimate emergency situation which results as a consequence of past debts, the need for an emergency GA grant would be an independent

analysis, calculated separately from the 30-day budget analysis (see the section entitled “Emergencies,” below in this chapter).

MMA’s GA application form takes the administrator and the applicant through the budget process under the application section entitled “Expenses.” Under that section, for each of the various identified basic necessities, there are two columns in which to report information. Under the column heading “Actual Cost for Next 30 Days,” the applicant should enter the actual 30-day cost for the household’s basic necessities, such as food, rent, utilities, fuel, etc.

It is the responsibility of the applicant to supply documentation sufficient to verify the household’s actual expenses. Under the column heading “Allowed Amount,” the administrator should enter either the actual amount as indicated by the applicant or the maximum amount for that basic necessity as fixed in the municipal ordinance, *whichever is less*.

There is one glaring exception to the general rule that the administrator enter as an “allowed amount” either the actual 30-day cost or the ordinance maximum, whichever is less. The exception applies to the food category.

Federal law, at 7 U.S.C. § 2017(b), reads as follows:

“The value of benefits that may be provided (under the Food Stamp program) shall not be considered income or resources for any purpose under any Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of benefits under the chapter.”

Because of this federal law, the GA administrator **cannot consider the value of an applicant’s food supplement benefit** when considering how much food assistance should be budgeted for the applicant. State regulation now parallels the federal law by requiring the administrator to budget the full food maximum that is a part of the municipal GA ordinance (DHHS General Assistance Policy Manual, Section IV, “Food”).

The theory behind the federal law is that the food supplement benefit was intended to supplement and not replace all other existing food programs, and the federal Congress wanted to avoid the food supplement benefit from becoming the overall food assistance

maximum. In any event, to stay on the right side of the federal law and the state regulation, the administrator must budget the maximum food allowance for all applicants.

Another important exception to the general rule that the applicant is allowed only the lesser amount between the actual 30-day cost of the basic necessity and the ordinance maximum applies to applicants receiving federal fuel assistance benefits (HEAP/ECIP). 42 U.S.C. § 8624(f) provides that HEAP benefits *cannot be considered as “income or resources,”* but case law has interpreted the restriction to mean that eligibility for local assistance must be determined as though the recipient paid for the HEAP supplied energy.

Accordingly, under the MMA model ordinance, the administrator should enter into the “allowed amount” column the actual heating fuel costs up to the ordinance maximum for applicants who just received or are about to receive a HEAP benefit. The administrator can then reserve the issuance of that amount of assistance until the recipient can demonstrate an actual need for heating energy assistance.

It is important to note that in addition to the basic application, there is room in the budget analysis for the administrator to include other expenses to be incurred by the household which the administrator determines to be essential. *For example, some medical expenses, essential prescription drugs, non-prescription drugs, essential clothing and portions of a telephone cost (if a telephone is medically necessary) are basic necessities* that may be incurred by the household.

It might also be the case that a household is facing a special expense for goods or services which are not specifically identified as “basic necessities” in GA law. The GA program is flexible enough to allow the administrator to consider such an expense a basic necessity, and budget that expense into the household’s 30-day budget.

The result of the budget process is a “bottom line” calculation of the household “need” over the next 30-day period. By subtracting from that “need” the household’s income, the administrator reaches the determination of the household’s *unmet need*. The unmet need, if it is less than the applicant’s deficit, is the amount of “regular” or “non-emergency” GA that can be made available to the household over the 30-day period, in accordance with the household’s request for assistance.

Example: The following is an example of a budget work up for the hypothetical applicant, Patricia Flannagan. Pat was divorced recently and lives in Sorrento with her two children, ages three and five. The only household income is the monthly TANF check of \$526. The

date of the application is August 15. Pat is able to present adequate documentation to verify all her claims, and she is not presently in an emergency situation of any kind. Pat is a first time applicant so the administrator did not require proof of how Pat spent her last month's income. The overall maximum level of assistance for a household of three in Hancock County is \$913, and so after subtracting Pat's income of \$493 the administrator determined Pat's deficit to be \$387.

Pat was instructed to fill out the first column of the application, "Actual Cost for Next 30 Days." She was asked to put a figure beside each category which represents her actual cost of the particular basic necessity over the next 30 days. After Pat was finished with this section of the application, the administrator went over it with her, explaining the reason for the figures he was entering in the column "Allowed Amount."

Miscellaneous "Household Composition" Issues

Determining household composition (who is a member of the household for purposes of GA) is an essential step in calculating eligibility. Although it is one of the easier steps involved in the GA eligibility calculation process, complications sometimes arise—especially in an age where the "traditional" family composition is continuously changing.

- **Incarceration.** Although it may seem obvious, it is worth mentioning that incarcerated individuals should not be counted as members of a household for purposes of GA. *While in prison they receive all the basic necessities*—thus incarcerated family members have no "needs" relative to GA.

Furthermore, while incarcerated, they are not "shar[ing] a dwelling" with family which is key to the definition of "household" (§ 4301 (6)) and thus they are not members of the "household" for the duration of their incarceration.

- **Child Custody.** Another issue concerns the provision of GA to divorced (or separated) parents sharing legal custody of a child. In order to determine within which household the child belongs (for GA household composition purposes), *residency is a key factor.*

First, should a GA administrator receive information that a child may be living in more than one home, due for example to a divorce, the administrator should inquire as to where the child is registered to attend school. Although this may not in every situation reveal the actual residency of a child, it should generally provide the administrator with pertinent information.

Second, court documents such as “child custody orders” and “custody agreements” should also provide information as to who has custody of a child and for how many days a week, etc. If a parent has been given “sole” custody, and the child actually spends most or all of his/her time with that parent, that custodial parent would be entitled to receive the entire amount of GA designated for that child.

***Note:** In such a case, there exists a corresponding presumption that the other parent should be (or is) contributing child support for the child. If child support is not being received, the GA applicant as a condition of future eligibility should be made to contact DHHS’s unit of Child Support Enforcement. Because child support is considered a resource, parents are obligated to pursue its receipt as a condition of GA eligibility.*

Example. Johnny’s parents are divorced. He spends half of the week with mom and half of the week with dad. Both parents reside in Wayne and he is registered for school in Wayne. Mom applies for GA and reveals that he lives with his father half of the week. The GA administrator should provide mom with only half of whatever amount she would otherwise be entitled to if Johnny were with her full time (i.e., the prorated amount).

Furthermore, since Johnny is under 25 years of age he remains the legal responsibility of both parents for support, which means the municipality could attempt to collect whatever funds are expended for Johnny from his father. The administrator should ask the mother whether she is receiving the child support Johnny’s father has been ordered to pay. If she is not, she should be required to contact the Department of Health and Human Services Support Enforcement Unit in order to seek enforcement of the father’s child support obligation.

Example. Sue’s parents are separated. She spends most of the time at her father’s home in Augusta and also attends school in Augusta. Sue’s mother lives in Old Orchard Beach. Sue’s mother applies for GA in Old Orchard Beach. Sue will be visiting her for a weekend sometime this month. Sue’s mother requests rental assistance because she lives in a one-bedroom apartment and wants to move into a two-bedroom apartment so she can accommodate her daughter with a bedroom of her own whenever she comes to visit. The GA administrator is told about the situation and performs the eligibility review based on a household of one—leaving Sue out of the household composition.

Needless to say, child custody issues relative to GA eligibility must be handled on a case by case basis. Chances are they will never be as clear cut as the previous examples. However much living arrangements may seem “untraditional” to administrators, information will

have to be objectively analyzed and DHHS or MMA should be called when dealing with situations which are unclear.

Income

If one half of the “need” analysis concerns the applicant’s overall eligibility as *though the household had access to zero income*, the other half concerns the household income calculation. Since need is determined by considering the applicant’s income, it is important to understand what is meant by *income*. The state law defines income as “any form of income in cash or in kind received by the household.” 22 M.R.S.A. § 4301(7). This definition refers to the net amount of earned income as well as retirement benefits, TANF, disability insurance, workers compensation benefits, social security income, alimony, support payments, or other forms of discretionary cash or in-kind contributions that may come into the household from friends, relatives or any other source.

Excluded Income

There are some forms of income that Congress has expressly prohibited from being considered as income. These include the food supplement benefit and fuel assistance benefits (HEAP). Also excluded by federal law is income earned under the Americorp program and VISTA job-training program. In addition, state law excludes from income property tax rebates issued under the Maine Residents Property Tax Program (so-called “Circuit Breaker” program). 36 M.R.S.A. § 6216. Effective August 1, 2013, however, the Circuit Breaker program was repealed and replaced with the “Property Tax Fairness Credit” program. Benefits obtained under the new program are counted as income unless used to provide for basic necessities. 22 M.R.S.A. § 4301(7).

Also excluded are funds from “Family Development Accounts” (known as FDAs). FDAs are accounts which can hold savings of up to \$10,000, and the family can still remain eligible for GA (in addition to other benefit programs e.g., the food supplement benefit) provided the funds in FDAs are used only for specific designated purposes such as: purchasing a car or home, or paying for education, health care, or other things approved by the Department of Health and Human Services. 10 M.R.S.A. § 1078. The earned income of any children *under 18 years old who are full-time students* and are working part-time also **cannot** be included as part of the household income. Finally, a person’s tools, such as a tractor or skidder used to earn a living, cannot be considered assets. 22 M.R.S.A. § 4301(7).

GA law also excludes work-related expenses such as withholding taxes, union dues, retirement funds, contributions, and reasonable work-related travel expenses and childcare costs from income. As a result, these items are subtracted from a household’s total income

when conducting the GA financial analysis (see *MMA's GA application, line "O" Section 4*).

Calculation of Income—Initial Applicants

When determining whether applicants are in need, the administrator should first determine if the applicant is an initial or repeat applicant. For initial applicants, the administrator should calculate the applicant's income for the next 30-day period from the date of application. If the applicant's total, *prospective* 30-day income is more than the total amount needed by the applicant for the next 30 days, in accordance with the maximum levels of assistance established by the ordinance, the applicant will not be considered in need. If an initial applicant received a paycheck two days ago, that money could not be used to calculate need. Instead, the administrator would add up the amount of paychecks to be received during the next 30 days. However, if the applicant had any money left over from the last paycheck, that cash-on-hand would certainly be included as a resource that is available to meet the need. *Applicants are required to use their income for basic necessities and the administrator should explain this, **both orally and in writing**, when people first apply.*

Example: The Laing family's only income is its monthly TANF check, and Mrs. Laing is applying for GA for the first time. The family spent its entire check within the first week, but not all of the TANF was spent on basic needs. Some was spent on a court fine for an OUI conviction, and some was spent on an expensive sound system for the family car. At the time of application, the family needs assistance for heating fuel and personal supplies. This household would be eligible for some assistance because the total *prospective* household income is less than the overall maximum level of assistance allowed in the ordinance, and the Laings had no money to secure some basic needs. The administrator has every right to find out how an *initial applicant's* previously received income was spent in an effort to determine that the income is no longer available. What the administrator cannot do is financially penalize an *initial* applicant for misspending previously received income. *The financial penalties for misspending income **only** apply to repeat applicants, as discussed below.*

Calculation of Income—Repeat Applicants

All applicants who are not initial applicants are considered "repeat" applicants. (*Remember, an initial applicant or first time applicant is a person who has **never applied for GA anywhere** in the state.*) For "repeat" applicants, the administrator should calculate the *prospective 30-day income* just as would be done for initial applicants. In addition, the administrator should also calculate all income received by the household within the last 30 days which was not spent on basic necessities. The income figure used in the calculation of

eligibility for repeat applicants is the combination of the income they expect to receive during the next 30 days *plus* any “misspent” income they spent during the 30 days before they applied on items that are not basic necessities. In other words, *money that is misspent is considered available*.

The law governing the availability of misspent income (22 M.R.S.A. § 4315-A) warrants some discussion. To begin with, § 4315-A confers two separate authorities upon municipalities:

1. The requirement that the municipality consider as available to repeat applicants any income that was misspent during the 30 days previous to application; and
2. the discretionary authority to establish formal use-of-income guidelines which can be applied to all GA recipients. As each of these two authorities is distinct and separate, each is discussed immediately below under separate headings.

The Availability of “Misspent” Income

The first half of § 4315-A reads as follows:

“All persons requesting general assistance must use their income for basic necessities. Except for initial applicants, recipients are not eligible to receive assistance to replace income that was spent within the 30-day period prior to the application on goods or services that are not basic necessities. The income not spent on goods and services that are basic necessities is considered available to the applicant.”

There are several aspects to remember about this section of GA law. First, generally speaking, the determination that misspent income is available to the household applies only to repeat applicants. This certainly does not mean that an administrator may not inquire about the manner in which an initial applicant’s recently received income was spent. *GA administrators clearly have the authority to request sufficient evidence to determine if any GA applicant, initial or subsequent, has any cash on hand.* The distinction that is made by this provision of law between initial and repeat applicants is that for an initial applicant, as long as his or her recently received income was actually spent, *how it was spent would not affect the initial applicant’s eligibility for non-emergency assistance.*

Although there is no legal requirement that applicants must have been given formal notice of their responsibility to spend their income on basic necessities, it is recommended that

administrators notify applicants about this provision as a matter of fairness and municipal good faith.

Beyond the issue of notice, there remains an issue of municipal discretion. A strict reading of the law would suggest that municipalities **do not** have the discretion to ignore or waive a review and determination of misspent income for any repeat applicant. Administrators may find in some circumstances that this apparent requirement of law restricts an applicant's eligibility for assistance too harshly. After all, the law allows an administrator to "consider" misspent income as available even when that income is clearly not available to the household.

By way of illustration, take an "on-again—off-again" applicant who is not an initial applicant but who has nonetheless not applied for many months or years. A sudden financial circumstance, such as a layoff, might have caused this applicant to apply for GA, but the layoff surprised the applicant in such a way that he or she had purchased some non-necessities within the past 30 days. Should the administrator, in such a situation, financially penalize the applicant by considering such "misspent" income as available?

A related issue revolves around the question of what is and what is not an allowable expenditure of income. There is, after all, a difference between the commodities and services that an administrator will budget for when determining an applicant's eligibility for assistance and the commodities and services that are reasonably necessary for a household to purchase with its own income. The statute defines the basic necessities, and the MMA model ordinance now describes some absolute non-necessities (e.g., cable TV, tobacco/alcohol, etc.).

What about everything in between? Common sense and reason must prevail here. First, all reasonable and documented expenditures for the statutory basic necessities, up to the ordinance maximums, *must* be allowed. Furthermore, all GA administrators have the discretionary authority to consider any other commodity or service a basic necessity, and that discretion should be liberally applied when reviewing a household's expenditures for the purpose of considering misspent income as available.

For example, a household's expenditures for liability car insurance or health insurance, reasonable car payments or licensing/registration expenses where an automobile is necessary, expenditures for necessary capital improvements, utility or rental security deposits, property taxes, necessary school supplies, and other reasonably necessary purchases should be allowed. An administrator may even wish to allow a small percentage

of income *expenditure* (e.g., 10%) for sundry contingencies, without requiring inordinate verifying documentation.

Proceeding even further with this line of thought, what about household purchases that are made during the last 30 days for basic necessities, but at levels of expenditure over the ordinance maximums? If an applicant spent \$475 on rent when the ordinance maximum is \$425, should the administrator consider that \$50 difference as “available”? Probably not, at least until the recipient has had an opportunity to look for more affordable housing. But, what if the applicant has a receipt showing that her entire TANF check of \$453 was spent on food, when the ordinance maximum for food for her family is only \$277. Should the administrator consider the \$176 difference as “available”? In this case, such a determination would be reasonable.

The primary purpose of this provision of law is to provide the administrator with some satisfaction that the income received during the last 30 days is not still in the applicant’s pocket. A related purpose is to provide the administrator with some leverage to ensure that future use-of-income is 1) well documented and 2) directed toward clearly necessary purposes. To put it another way, *the law should **not be applied** in an overly punitive manner, but rather as a tool to influence repeat recipients toward appropriate spending habits.*

Example 1: Jeremy Bentham receives \$312 a month TANF for his 12-year-old son and regularly applies for GA. On October 15 he applies for assistance and the administrator asks Jeremy how he spent his October TANF check. Jeremy did not pay his rent or electric bill, nor did he purchase any fuel oil. In fact, Jeremy is unable to document any expenditures. He says he bought some food and had to buy some school supplies for his son. The administrator asked what the school supplies were, where he purchased them, and how much he spent on those supplies. In response to these questions, Jeremy indicated the expenditure was only \$10. The administrator allows for the \$10 school expenditure and a \$90 expenditure for food, which represents the ordinance maximum for food for the two weeks between the receipt of the income and Jeremy’s application. When the \$100 allowed expenditure is subtracted from Jeremy’s October income, it is determined that \$212 worth of Jeremy’s October TANF is considered still available. That “available” income is added (*see Section 4, line N of MMA’s GA application*) to his November’s TANF benefit when determining Jeremy’s income.

Example 2: John Mill applies for GA infrequently. He last applied just before Christmas last year. In August his hours at work were cut back and in September he applied to the town for help with his rent. Right after his hours were cut back, John used his last full two-week

paycheck to buy a second oil tank and 500 gallons of fuel oil at its low pre-season price. John thought the 500 gallons of fuel oil could carry him through most of the winter. The administrator immediately recognized the good sense behind John's purchase and considered no previously received income as "available."

Example 3: Willamena and Henry James apply regularly to the town for help with a variety of needs for their large family. Willamena receives SSI and Henry works in the woods. They have six children, and a combined income of \$1,000 a month, after Henry's work-related expenses are subtracted. The last time the Jameses applied, the administrator took some time to explain very carefully the applicants' responsibility to spend their income on basic needs and document those expenditures. The next time the Jameses applied they were able to show that they had made their \$650 mortgage payment and their \$150 payment arrangement with the utility company, and the rest of the money had gone toward food and household supplies except for \$26 which had been spent on cable television. The administrator had specifically told Willamena that money spent on cable would not be replaced with general assistance, and so that \$26 was considered available and added to the Jameses prospective income in the determination of their eligibility. The administrator also considered the fact that both the mortgage and utility payment arrangement were over the ordinance maximum, but she chose to allow those expenditures because they were necessary, actually paid, responsibly documented, and no more cost-effective alternative housing or electric services were available.

Use-of-Income Guidelines

The second part of 22 M.R.S.A. § 4315-A creates the authority for municipalities to establish use-of-income guidelines. The law reads:

"A municipality may require recipients to utilize income and resources according to standards established by the municipality, except that a municipality may not reduce assistance to a recipient who has exhausted income to purchase basic necessities. Municipalities shall provide written notice to applicants of the standards established by the municipalities."

The use-of-income standards that a municipality may establish under this section of GA law are simply guidelines developed by the municipality which explain to all GA recipients how the municipality expects them to spend their income. The law does not require municipalities to establish these guidelines; it simply authorizes them to do so if they wish. Rather than dictate the exact form or substance of these use-of-income guidelines, the law

allows municipalities to establish their own guidelines which can be more or less specific in nature according to local policy.

Despite this flexibility allowed by the law, there are a few limitations imposed on a municipality's use-of-income guidelines:

- The municipal guidelines may not establish standards of eligibility which are *more restrictive* than the standards of eligibility established by state law;
- If a municipality wishes to establish use-of-income guidelines, a *written notice* detailing the guidelines must be provided to all GA applicants;
- Even when a recipient spends his or her income in a manner contrary to the municipal guidelines, the administrator *cannot* penalize that recipient by reducing his or her assistance *if the recipient actually exhausted the household income on **basic necessities***.

For example, let us suppose that the town of Sabattus has a policy that requires GA recipients to pay their rent with household income. Oskar Petersen, a regular GA applicant who was well aware of the Sabattus use-of-income policy, applies to the town for help with his rent. The administrator asks Oskar how he spent his recently received pension check, and Oskar provides receipts showing that he used his whole check to buy some fuel, pay his light bill, and purchase some groceries. Oskar would remain eligible for GA for his rent, even though he violated the town's use-of-income guidelines, because he had in fact exhausted his income on basic necessities. Even if Oskar had no good reason (i.e., "just cause") not to pay his rent first, Sabattus could not penalize him for making the financial decisions he did. The law, which allows municipalities to establish use-of-income standards, makes it clear that such standards are merely guidelines. *A municipality's use-of-income guidelines **do not**, in themselves, carry the force of eligibility standards.*

Since the law allows a municipality to establish its own use-of-income standards, there could eventually be developed a great number of unique and effective standards. As examples of the variety of guidelines a municipality might consider, three sample "use-of-income" model policies can be found at Appendix 4: the use-of-income policy which is part of MMA's model GA ordinance, and the policies of the City of Augusta and the Town of Wells. These three samples represent a spectrum of policy-making possibility.

The policy established by MMA's model ordinance simply informs all applicants of their obligation to spend their money responsibly, and *reserves the municipality's right* to specifically direct a recipient's use-of-income when and if that recipient demonstrates an

inability or unwillingness to make responsible financial decisions or accurately document household expenditures. The policy behind the MMA model ordinance language is to not make financial decisions for a GA recipient unless it becomes clear that the recipient cannot or will not make appropriate and responsible financial decisions for him or herself.

The Augusta use-of-income policy directs all applicants to exhaust their income on their basic needs, and those needs are ranked in an order of priority, starting with rent/housing needs and proceeding through energy needs (fuel oil, electricity), personal care, food and an “other” category. By these guidelines, a recipient of GA who has an income of \$500 per month would be required to, if nothing else, pay the rent. If after the rent obligation was taken care of there is income left over, that income must be used to pay the electric bill or purchase fuel oil, and so on. Whenever an applicant applies for assistance in Augusta (excepting initial applicants), he or she must demonstrate that the household income was spent according to this priority list.

Unlike the MMA use-of-income policy, the Augusta standards are uniformly applied to all repeat applicants without consideration of their previous financial behaviors. The Augusta director finds that the City’s policy: 1) encourages Augusta recipients towards improved management of their financial resources; 2) reduces the need to issue emergency assistance, especially to stop evictions or utility disconnections; and 3) simplifies the process of verifying eligibility, both for the City and recipients, by clearly establishing what receipts or other paperwork the recipient must bring in whenever he or she next applies.

The policy of the Town of Wells falls somewhere in between Augusta’s policy and MMA’s. Just like the Augusta sample, the Wells requirements direct all applicants to spend a percentage of their income toward specific basic needs, which are listed in an order of priority. Unlike the Augusta requirements, however, the Wells guidelines do not require an exhaustion of income. For example, GA recipients who have an income of approximately \$350 are required to direct approximately \$280 of that income (80%) toward their rent. The rest of the household income must be spent on basic needs, but recipients are allowed to spend that money with some discretion. The policy behind this approach appears to recognize a balance between the municipality’s interest in ensuring that applicants meet as much of their financial obligation as possible and the recipients’ interest in having some income on hand to meet day-to-day contingencies.

If it is agreed that use-of-income guidelines are a good idea and worth the administrative effort, GA administrators, under the direction of their municipal officers, should feel free to develop a set of standards they are entirely comfortable with. Whatever form the guidelines

take, care should be taken to word the written notice describing the guidelines in such a way that applicants are not misled into thinking that failure to conform to the use-of-income requirements would automatically result in their ineligibility for GA. One way to accomplish this would be to simply restate the provision of law to read something to the effect: “Nothing in these guidelines permits the administrator to reduce assistance to a recipient who has exhausted his or her income to purchase basic necessities.”

Lump Sum Income

As discussed above, the analysis of income for the purpose of determining eligibility is generally prospective; the administrator calculates from the best available information what the household income will be for the next 30 days, and any surplus income in that 30-day period cannot be rolled over into a subsequent 30-day period. In 1990, the Legislature amended the definition of “income” (§ 4301(7)) to allow an exception to this general rule. This exception applies when a repeat GA applicant receives a **lump sum payment**.

A lump sum payment is defined at § 4301(8-A) as essentially a one-time, windfall payment received prior or subsequent to applying for assistance. Examples of lump sum payments would include retroactive SSI payments, workers’ compensation settlements, inheritances, lottery winnings, etc. The 1990 amendment to the statutory definition of GA income allows administrators to consider lump sum payments received by repeat GA applicants as available to the applicant-household for periods longer than 30 days in certain *carefully controlled circumstances*. The process of spreading out a lump sum payment over an extended period of time and presuming it to be available is called *lump sum proration*. In 2002 the Legislature amended § 4301(8-A) and § 4308 to explicitly exclude “first time” applicants from this lump sum payment rule. 22. M.R.S.A. § 4308(3). The lump sum proration process is also found in the TANF program. A TANF recipient who receives a lump sum payment can expect to be disqualified from receiving TANF for a period of months equal to the lump sum payment, less “disregards,” divided by the applicant’s monthly benefit. In keeping with the fact that GA is a final safety net program, the GA lump sum proration process does not exactly resemble the TANF process.

To correctly prorate a GA applicant’s lump sum income, a number of steps have to be followed:

Step #1—Lump Sum Proration: Initial

As discussed immediately above, lump sum proration is a procedure that *cannot be applied to initial applicants*. This does not mean that lump sum payments received by initial applicants must be completely ignored. If it is determined that an initial applicant received a

large, lump sum payment in the recent past, the administrator has every right to learn what was done with that money in order to determine:

1. that no amount of the lump sum payment is still available; and
2. if some of the lump sum payment was converted into an unnecessary tangible asset that can be reconverted to cash.

The administrator cannot go beyond these inquiries when dealing with lump sum payments received by initial applicants.

It should also be noted that the law formerly required that all recipients be given formal notice of the municipality's authority to prorate lump sum payments. Under that original wording of the law, a lump sum proration could not be applied even to a repeat applicant if that repeat applicant had not received written notice of the municipality's authority to prorate prior to receiving the lump sum payment. The requirement of written notice has been removed from the lump sum proration statute.

Even though the lump sum notice provision has been removed as a strict requirement of GA law, all MMA *Notice of Eligibility* forms contain a lump sum proration notice. As a matter of municipal good faith, any municipality not using MMA forms should consider informing all applicants, both orally and in writing, of the lump sum proration process and the applicants' responsibility to spend any lump sum income on basic necessities. Applicants should also be advised to document those expenditures if they wish to protect their GA eligibility.

Step #2—Lump Sum Proration: Disregards

In the event a repeat GA applicant receives a lump sum payment, the administrator must evaluate how much of that lump sum payment is “pro-ratable”; that is, what portion of the lump sum payment must be disregarded before the remainder is prorated over future 30-day periods. There are three reasons to disregard (i.e., not prorate) some or all of a lump sum payment:

1. Any part of the lump sum income which can be documented as a “*required payment*” must be disregarded. A required payment would be any part of the lump sum payment which is designated to another person, typically to pay outstanding legal or medical fees, as a condition of receipt of the lump sum payment.

2. Any part of the lump sum payment which is spent or has been *spent for basic necessities* must be disregarded. It is this part of the disregard process which will call upon an administrator's common sense, good judgment, and ability to reasonably construe what is and what is not a "basic necessity." For example, if an applicant's house or car falls into disrepair while he or she is waiting for an SSI decision, and that applicant ultimately receives a retroactive SSI check, the administrator should consider reasonable repairs to the house or car as legitimate expenditures to purchase or secure the applicant's shelter and transportation. *Any amount of the lump sum payment used for documented expenditures such as these should be disregarded.*

On the other hand, the repair and maintenance of a shelter is very different from an expansion or remodeling project, and mechanical repair to a necessary automobile is very different from a new paint job. In accordance with the general rule in GA that all household income must be used for basic needs, the applicant should be able to provide reasonable justification for all expenses made out of the lump sum payment.

Also, GA law details some particular expenditures made with lump sum proceeds that are allowed, that is, excluded from the lump sum payment for the purpose of proration assessment. These specific expenditures are: payment of funeral or burial expenses for a family member; 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 used for basic necessities; or payment of bills earmarked for the purpose for which the lump sum is paid. 22 M.R.S.A. § 4301 (7).

3. Lump sum payments which represent a "*converted asset*" must be disregarded in their entirety if the recipient has replaced the asset or intends to replace the asset, or otherwise uses the *converted asset for necessary expenses*. The primary example of a "converted asset" is an insurance payment for destroyed or damaged property. If a GA applicant's house sustains a fire, and the applicant subsequently receives a \$10,000 insurance payment, that \$10,000 is a converted asset rather than income. Consequently, it may not be prorated as lump sum "income," unless the applicant chooses to use it as income by not replacing the asset or diverting the liquefied asset into other necessary expenses.

Step #3—Lump Sum Proration: Income Add-Backs

After all the required payments and legitimate disregards have been subtracted from the original lump sum payment, the administrator should then add to that subtotal all the regular income the household has received between the receipt of the lump sum payment and the

time of application for GA. For example, if an applicant received an SSI retroactive payment of \$9,000 six months ago, and since that time has been receiving \$434 a month as an SSI benefit, the administrator would first determine how much of the lump sum payment was spent as required payments or legitimate disregards and then subtract that amount from the original \$9,000. At this point in the calculation, the administrator would add back to this new subtotal the sum of \$2,604 (6 x \$434), which represents subsequently received income.

Step #4—Lump Sum: Period of Proration

Once all the disregards have been determined and the subsequently received regular income has been added back in, the remaining subtotal may be prorated. The period of proration is achieved by dividing the proratable portion of the lump sum payment by the verified actual monthly amounts for all the household's basic necessities. The result of this division will yield the number of months for which it would be reasonable to expect the household to have sufficient income to purchase basic necessities. The law, however, requires that *no period of proration shall exceed 12 months*.

Therefore, if the result of dividing the pro-ratable lump sum income by the household's maximum need is less than 12, that result shall be the period of proration. If the result is 12 or greater, the period of proration shall be no more than 12 months from the date of that GA application. In either circumstance, the period of proration begins *when the applicant received the lump sum payment*. The period of proration is the heart of the lump sum rule. During the period of proration, the administrator may consider as available to the household a sufficient income, and the household would not be eligible for GA.

Step #5—Lump Sum: Emergency Assistance

It used to be the case that the provisions of law governing the lump sum proration process clearly stated that applicants remain eligible for *emergency GA* even during a period of proration. That is no longer the case. As of 1993, the so-called "emergency override" provision was removed from Lump Sum proration law. This means that a *household will not be eligible for either "regular" or "emergency" GA during a period of proration*, unless they can establish additional eligibility (e.g., for a change in household composition). However, as of July 25, 2002, notwithstanding the foregoing, the household or 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. Upon subsequent applications, that household's eligibility is subject to the foregoing.

Example: Heidi Hegel, her husband and two children live in North Berwick. A year ago Heidi lost her job due to a work-related injury, and she has since been receiving a monthly workers' compensation income of \$700. Her husband sought work but his efforts proved unsuccessful. The overall maximum level of assistance for Heidi's household is \$799 for a 30-day period, and so the household's deficit was \$99 per month. Since Heidi's injury, either she or her husband regularly applied for the GA the household needed. A few months ago, Heidi received a surprise inheritance of \$7,500. For three months after receiving the inheritance Heidi had no need for GA and did not apply. Unfortunately, during the time she was out on workers' compensation, Heidi got far behind on some of her bills. To make matters worse, during this period of time Heidi's septic system failed and she had to spend \$5,000 for a replacement system. All in all, Heidi found out that the \$7,500 didn't last as long as she had expected it to. Three months after receiving the inheritance, Heidi had to apply for GA again. When Heidi first applied for GA, prior to receiving the inheritance, she had been informed of the lump sum proration process, and so she had kept a good account of her expenditures. The administrator reviewed the documentation Heidi provided and determined that Heidi's use of the lump sum payment was for necessary expenses, and there was no proration.

Example: Katy Drew and her two kids received \$418 a month from TANF until Katy received \$3,000 in Lottery winnings. TANF immediately disqualified Katy for seven months because of the lump sum payment, and so Katy applied to her local GA office for assistance, claiming that she had lost the \$3,000 right after cashing the Lottery check. The administrator reviewed the law and divided the overall maximum level of assistance designated for the household—\$670—into the lump sum payment of \$3,000. The administrator's decision was that Katy was ineligible for GA for 4 1/2 months. The proration was correctly calculated because no part of the lump sum payment was a required deduction or spent in such a way that it should have been disregarded for the purposes of proration.

Income—Other Issues

Net vs. Gross Income

For the purpose of determining an applicant's income, the *administrator should use net income only*. At § 4301(7), GA law prohibits taxes, retirement fund contributions and union dues from being considered as income, and so the standard FICA/Social Security deductions from gross pay cannot be considered as income for the purposes of determining GA eligibility. Some employees make voluntary arrangements with their employers to have additional sums deducted from their paycheck for certain purposes. These non-mandatory deductions should be reviewed by the administrator and when the income deducted would

be more appropriately devoted to the applicant's basic needs, the applicant should be directed in writing to secure the deducted income as a potential resource (*see "Use of Potential Resources," in Chapter 3*).

Work-Related Expenses

In addition to standard payroll deductions, § 4301(7) prohibits the administrator from considering transportation costs to and from work, special equipment costs and work-related child care expenses as "income." For this reason, it is necessary for the administrator to add a step in the income calculation process which identifies the actual work-travel, work equipment and work-related child care expenses and deducts that sum from the income subtotal. MMA's model application forms provide a line in the income calculation section for that purpose. When the applicant is not employed but is actively seeking employment, the actual and reasonably necessary job-search costs should also be deducted from income.

Irregular Income

Sometimes it will be difficult to determine the applicant's monthly income because of the nature of his or her work. Self-employment; piece work employment; the many people in Maine who harvest natural resources such as digging for clams or worms or working in the woods; people who work variable hours, on-call, seasonal work, or work that is available only in good weather—all these situations can make it very difficult to pinpoint a 30-day prospective income.

In these situations, the administrator may review the applicant's previously received income to get an idea of what the average earnings are and what could reasonably be projected as prospective earnings. This calculation might require contacting persons with whom the applicant does business, such as the paper mill or the wholesalers purchasing the harvested marine products, to verify any applicant claims of short-term limited markets. In cases such as these, it would probably be wise to have the applicants apply for GA on a weekly basis in order to make any necessary adjustments as a result of the income actually received.

Self-Employment Income

It is not unusual for a self-employed applicant to claim a significant offset of work-related costs against income received. If the applicant's business is doing particularly poorly, the costs of doing business will allegedly be greater than the income actually received. The GA program, however, is not a subsidy program for small business. It is also not the case that the GA program is designed to perform sophisticated analyses of profitability or capitalization efficiencies.

Against the actual income received by self-employed applicants, the administrator should only deduct the expenses that were actually incurred as a result of producing the income if those expenses have been paid or need to be immediately paid by the applicant during the 30-day income projection period. *If the applicant's business is not producing at least a **minimum-wage income**, the applicant should be required to perform workfare for the municipality or make a good faith effort to secure bona fide employment, or both.*

Income from Household Members

One circumstance that causes confusion in the attempt to determine eligibility is when a person applies for GA and it is determined that the applicant is living in the same dwelling unit with other people who are not members of the applicant's household. In this circumstance, whose income and whose 30-day needs are used in the calculation of eligibility? The answer to this question turns on the determination of whether the various people living in the dwelling unit are *pooling* or *not pooling* their respective incomes.

- **Pooled Income.** If the people living in dwelling unit pool their income, that is, co-mingle their funds and mutually share both incomes (to the extent it is available) and expenses, as would a family, then the members are treated as one household and all income is included when determining eligibility. In other words, “pooling” means the actual household expenses are shared with some degree of overlap between household members, for instance one person pays the rent and fuel while the other pays for the food, light bill, etc.

“Pooling of income” is defined in GA law as follows:

“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 presumption of pooling income.” 22 M.R.S.A. § 4301(12-A).

This definition establishes a shifting of the burden of proof from the municipality to the applicant. By ordinance, the municipality can assert the presumption of pooling and establish guidelines whereby applicants can rebut the presumption. MMA's model GA ordinance contains some language to this effect. When an applicant wants to rebut the presumption of pooling, the applicant should bring documentation, such as receipts, banking

records, and landlord or other vendor agreements that clearly show the applicant has been and is currently solely and entirely responsible for his or her pro rata share of the household expenses.

Other circumstances to review when attempting to evaluate whether the household is pooling income would be the nature of the relationship between the alleged roommates. Are the roommates related? Do they share property or bank accounts? Does the municipality have any compelling evidence to assert the existence of a close personal relationship? These are findings that could be relied upon to reject an attempt by an applicant to rebut the statutory presumption of pooling.

Legally Liable Relatives

Prior to September 30, 1989, all parents and grandparents living or owning property in Maine were financially responsible for the support of their children and grandchildren. Legislation passed in 1989 limited that financial liability to parents of children under the age of 21. In 1993, the law was again amended to clarify that grandparents have no financial obligation to support their grandchildren. However, the parental obligation to support (at least with regard to the GA program) remains until the parent's child is 25 years of age. Because the statute makes no exceptions for emancipated minors, it is MMA Legal Services' opinion that the 25-year of age rule applies even in cases of emancipation.

Therefore, if an applicant is 25 years of age or *older* and *still living* with his/her parents, the administrator cannot automatically evaluate the entire household as a whole family unit without employing the presumption of pooling as discussed immediately above.

Most administrators recognize that the parents and siblings of adults sometimes have limited willingness to provide long-term, continuing support to roommate family members. When people are living with relatives who they have no legal liability to support, it is clearly possible that the applicant is seeking assistance for only him/herself and is not pooling income with his/her parents or siblings. If such an applicant is applying for GA while intending to keep living with relatives, he or she could have a tougher burden of rebutting the statutory presumption of pooling.

It is more typical, however, for applicants in this circumstance to apply for assistance for the purposes of moving to alternative housing. In such a case, since parents have no legal obligation to support their adult children who are 25 years old or older, it is often the case that relocation assistance is supplied before the supportive family members go to the trouble of kicking their relatives out onto the street.

If the members of the household are legally liable for the support of each other (parents for children under the age of 25; spouses for each other), the income of all members of the household *must* be considered when determining eligibility. The broader issue of determining the eligibility of minors who are applying independently for assistance is taken up below, under “*Liability of Relatives.*”

Roommates

Against the presumption of pooling that is now part of GA law, there is obvious fact that some people are living together merely as roommates. When members of the household are not legally liable for each other and they do not pool their income or share expenses, they are considered to be roommates. In a roommate situation only the applicant’s income and his or her pro rata share of the household expenses can be considered in the calculation of eligibility. The administrator cannot include the income of the roommate who is not applying for GA. Similarly, the administrator should not consider or subsidize the non-applicant roommate’s pro rata share of the household expenses.

GA law, at the definition of “household” (§ 4301(6)), expressly provides that when an applicant shares a dwelling unit with one or more individuals, *even when a landlord-tenant relationship may exist between them*, 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. For instance if there were two roommates and one applied for GA, consider 100% of the applicant’s income but 1/2 of the shared household expenses: three roommates, consider 100% of the applicant’s income but 1/3 of the shared household expenses; four roommates, 1/4 of the shared expenses, and so on.

Example: Four roommates share a house in Sullivan. Three roommates earn more than enough money to pay their expenses. However, one roommate, Bernard, only receives \$300 a month in unemployment compensation. The overall maximum for Bernard, by ordinance, is \$363, so Bernard’s deficit is \$63. With regard to Bernard’s unmet need, the calculation is as follows:

For a household of four (4), the GA ordinance allows the following monthly maximums:

Rent (heated)	\$ 592
Utilities	70
Food	426
<u>Personal supplies</u>	<u>35</u>
Total	\$1,123

Bernard's share is 1/4 of \$1,123 or \$281. Because his income is more than his need (\$300 minus \$281 provides a surplus of \$19) and his income exceeds the allowed maximum for his pro rata share (1/4), he is not eligible for GA.

When taking this application the administrator should consider the applicant a household of one, even though there were three other people, because the other three were not applying for assistance since they had adequate income. However, if they *pooled* their income the administrator should consider it a household of four and all income should be considered.

Rental Payments to Private Homes

Sometimes people apply for rental assistance and their "landlord" lives in the same house or apartment as the GA applicant. The applicant's eligibility for rent in this circumstance is often questioned by GA administrators because of the possibility that the relationship between the homeowner and the tenant is not really a landlord-tenant relationship, the rate of rent being charged is out of proportion with regard to the actual shelter cost, or the rent is merely being requested for the purposes of generating an income which would not exist except for the availability of GA funding.

The statutory definition of "household" (§ 4301(6)) addresses this scenario. The pertinent part of the definition reads:

*"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."*

A plain reading of this language reveals the manner in which the cost of the applicant's housing expenditures are determined when: (1) a number of people are living under the same roof; (2) there is no pooling of income; and (3) not all household members are applying for assistance. Simply stated, eligibility is determined by budgeting the applicant's expenses as his or her proportionate share of the actual, shared household expenses. This calculation of the applicant's prorated housing costs applies even when the applicant claims to owe a rental payment to another person in the household.

Example: Marsden Hartley applied for assistance in Georgetown. Marsden claimed that he must pay his roommate \$300 a month rent for his room in the mobile home. The rent covers heating and utility costs. Marsden is responsible for buying his food and personal supplies,

and so he also asked for his full food and personal care allowance. Marsden's total request is for \$450 worth of GA. The Georgetown administrator explained the law to Marsden and asked for documentation describing the entire household's actual 30-day costs; namely, the total rent or mortgage costs for the mobile home, the total electric bill and the total need for heating fuel over the next 30-day period. Marsden's roommate did not want to provide that information, but reluctantly demonstrated that the actual rent the roommate had to pay to a third-party landlord was only \$150. The 30-day electric bill was \$40, and the mobile home's fuel tank was topped off just a few days before Marsden applied for GA. Based on this information, the administrator (*using MMA's GA Application (Section 6)*) calculated Marsden's 30-day need as:

6. Expenses

<u>MONTHLY EXPENSES</u>		<u>ACTUAL COST FOR NEXT 30 DAYS</u>	<u>ALLOWED AMOUNT</u>	<u>OFFICE USE ONLY</u>
1. Food		\$ 112	\$ 112	
2. Rent	NAME AND ADDRESS OF LANDLORD:			
		\$ 150	\$ 75	1/2 of \$150
3. Mortgage – MORTGAGE HOLDER:		\$ ----	\$ ----	
4. Electricity		\$ 40	\$ 20	1/2 of \$40
5. LP Gas		\$ ----	\$ ----	
6. Heating	TYPE: (i.e., oil, electricity, etc.)	\$ ----	\$ ----	
7. Household/Personal Supplies		\$ 30	\$ 30	
8. Other Basic Needs (please specify)		\$ ----	\$ ----	
		\$	\$	
TOTAL MONTHLY HOUSEHOLD EXPENSES:		\$ 332	\$ 237	

Because Marsden had zero income, the administrator calculated his 30-day need as \$237. The administrator then noted that the overall maximum level of assistance for which Marsden was eligible (household of one in Sagadahoc County) was \$424. With a deficit of \$424 and an unmet need of \$237, the administrator correctly found Marsden to be eligible for \$237 worth of GA over the next 30-day period.

The final question facing the administrator in this case was to whom the GA should be issued. The administrator did not feel it appropriate to issue money to Marsden's roommate just on the claim that he was Marsden's landlord, especially where the roommate had no ownership interest in the mobile home. Accordingly, the administrator issued Marsden's share of the rent to the actual landlord, who did not live in the mobile home. The GA Marsden needed for electricity was issued to the utility company under the roommate's account number.

Although in this case the administrator chose not to issue Marsden's GA to his roommate/landlord, in special cases the administrator may issue a housing cost payment on behalf of an applicant to another person acting as landlord who lives in the same dwelling unit as the applicant. Under such circumstances, criteria to be considered include:

1. **The applicant and the landlord are not pooling income or resources.** If it is found that they are pooling income, the administrator will determine the need of the entire household.
2. **The landlord has legal interest in the property.** If the landlord has neither legal, equity **nor** tenancy interest in the property, no rental payment should be issued to that landlord or to any third party on his or her behalf. If the landlord has only equity interest in the property, the rental payment, if issued, will **not** be issued to him or her, but only to the party with legal interest. If the landlord has only tenancy interest in the property, the rental payment, if issued, should be issued only to the party who has a superior legal or equity interest in the property.
3. The rental arrangement is not being created for the sole purpose of eliciting general assistance as income to the landlord. Evidence supporting this finding could include the rental cost of the property as compared to fair market value; the rental cost of the property as compared to the applicant's pro rata share of the entire shelter cost; the landlord's history of renting the property; ties of consanguinity or affinity between the landlord and the tenant, etc. (*See also discussion below regarding "Rental Payments to Relatives."*)

When an owner of a private home regularly receives rental payments from the municipality on behalf of applicants renting rooms from that private home, the municipality may require that landlord to make a good faith effort to obtain a lodging license from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144 A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

Rental Payments to Relatives

The municipality is **not required** to issue rental payments to an applicant's relatives. However the municipality may decide to do so if the following criteria has been met; 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. In other words, if the relatives are in a financial situation whereby they need the GA benefit to assist with basic necessities provided to the GA applicant/recipient, the municipality may decide to issue the general

assistance despite the fact they are living with a family member. 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 relatives’ children. 22 M.R.S.A. § 4319(2).

Sometimes providing assistance to a relative is actually the most cost-effective way to provide an eligible applicant with basic necessities and as such this is an option to explore.

Note: A similar analysis to the one above regarding rental payment to private homes should be considered by the GA administrator.

Example: Adrian Hart is recently divorced, is currently unemployed and needs a place to stay. He has been searching for employment but his job skills are poor and he is having a difficult time finding employment. Adrian has been living with his aunt but since she is elderly and on a very limited income she can no longer afford to give Adrian a free place to stay. Adrian’s aunt has agreed that for \$200 a month, he can stay with her. Adrian is found eligible to receive \$381 in GA benefits. Because Adrian is eligible for more than the cost of room and board at the aunt’s home, he has been living at the aunt’s home for over three months, and because the aunt’s income is such that she requires the assistance to provide the household with basic necessities, the municipality could consider providing the \$200 to Adrian so that he can continue to live with his aunt.

Of course in the above example, the municipality could perform a GA analysis based on a household of two, which will usually lower the entitlement amount (*the entitlement amount is always less for a household of two than it is for two separate individuals*). However, in a case where there is the flexibility such as here, providing the full \$200 is still \$181 less than what Adrian is eligible for—and if it keeps him housed and fed it may be the best option. This would certainly be more cost effective than having him move out of the aunt’s home (because she cannot or does not want to keep him for less than \$200) and then have to provide him with his full eligibility amount of \$381.

Rental Payments to Landlords—IRS Regulations

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 must be provided to the Internal Revenue Service (IRS) pursuant to IRS regulation. See Title 26 Section 6041(a) of Internal Revenue Code.

Assets

In addition to calculating income, the administrator must take into consideration (using *MMA's GA application, Section 5*) whether the applicant *has any personal property or assets such as recreation vehicles, boats, real estate, a life insurance policy, or stocks or bonds*. In order to ever enforce a requirement of asset liquidation imposed on a recipient, the administrator *must give the applicant **written notice*** that he or she must attempt in good faith to sell or liquidate the assets in order to receive assistance in the future.

MMA's model GA ordinance provides that recipients are allowed to keep one car if it is needed for transportation to work or for medical reasons, provided the market value of the automobile is not greater than \$8,000. Also, if there are other unnecessary assets which could be liquidated to meet the applicants' need in a timely manner, the administrator can deny all or part of the request and inform the applicants to use the resources to reduce their need. If, on the other hand, the applicant's assets would take some time to liquidate, assistance would be granted for an interim period, and the applicant would be expressly required to liquidate the assets by a time certain in order to be eligible for assistance after that date.

Another matter that is left to the discretion of local officials is the ownership of real estate. If applicants own real estate, other than a home that is occupied as their residence, the municipality *may limit ongoing assistance* if the applicants refuse to sell the property at its fair market value so that the proceeds can be used to meet the household's expenses.

Municipalities may also consider adopting language in their ordinances (*MMA's model ordinance currently contains such language at section 5.4*) establishing a maximum size of land (lot size) for a *primary residence* above which the excess will be viewed as an *available asset (resource) if certain conditions are met*. The conditions included in MMA's model GA ordinance (amongst other things) are that:

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.

NOTE: *In the event a municipality wishes to adopt a maximum size of land (lot size) requirement, other than the one found in MMA's GA ordinance at section 5.4, they should first contact MMA Legal Services to discuss the matter thoroughly.*

MMA's model language would provide for the following result: If a GA applicant (who had received GA for at least 120 consecutive days) owned a home on a 12-acre lot of land in an area where the minimum lot size due to the municipality's zoning ordinance was two acres, **and the client met all six criteria**, the GA recipient could be made to place the additional ten acres up for sale (at fair market value) while receiving GA. Furthermore, under MMA's model, *once the applicant ceases to receive assistance the obligations under section 5.4 also cease*. Assessor's cards on the property at issue should be consulted in order to ascertain necessary information relative to the property at issue.

Expenses

Another critical part of the application process concerns the calculation of an applicant's monthly expenses. Using MMA's GA application form (Section 6), the following serves to illustrate the manner by which "expenses" are calculated.

6. Expenses

<u>MONTHLY EXPENSES</u>		<u>ACTUAL COST FOR NEXT 30 DAYS</u>	<u>ALLOWED AMOUNT</u>	<u>OFFICE USE ONLY</u>
1. Food		\$ 100	\$ 335.00	
2. Rent	NAME AND ADDRESS OF LANDLORD:			
3. Mortgage – MORTGAGE HOLDER:		\$ ----	\$ ----	
4. Electricity		\$ 80	\$ 70.00	
5. LP Gas		\$ ----	\$ ----	
6. Heating Fuel	TYPE: (i.e., oil, electricity, etc.)	\$ 400	\$ 200.00	
7. Household/Personal Supplies		\$ 20	\$ 40.00	
8. Other Basic Needs (please specify) Telephone		\$ 40	\$ 13.50	(Basic Rate)
Mileage		\$ 250	\$ 33.60	(Mileage X
Day Care		\$ 40	\$ 0	
		\$	\$	
TOTAL MONTHLY HOUSEHOLD EXPENSES:		\$ 1,405	\$ 1,071.10	

Food:

Under the food category, Pat Johnston had figured the family's 30-day need to be around \$100 more than the food supplement benefit they received. The administrator indicated that according to GA rules, the food supplement benefit was not counted as income and budgeted in the full \$335 maximum eligibility according to his ordinance.

Rent:

Under the rent category, Pat put down her actual monthly rent cost of \$475, but the administrator explained that he could only budget \$379 in that category, because that was the maximum rent for a three-bedroom dwelling unit allowed by his ordinance.

Utilities:

Pat had been using some electric space heaters during the winter and so her electricity bill over the last few months was running about \$80. The administrator explained that the utility maximums in the ordinance were not seasonally adjusted, and so he could only budget in the ordinance maximum of \$70 for utility costs for a family of three.

Heating Fuel:

Pat didn't really know exactly how much heating fuel she would need in the month of April, but estimated that she would need at least 200 gallons to fill her tank, and fuel was running at about \$2.00 per gallon. Since the actual heating cost was unknown, the administrator budgeted in the ordinance maximum of 125 gallons at \$2.00/gallon, or \$250.00.

Household/Personal Supplies:

Pat did not really know what type of commodities this category included, so she put down \$20 as a guess. The administrator explained that the category was meant to include such items as kitchen, bathroom and laundry supplies. Pat and the administrator agreed that Pat would easily be spending up to the ordinance maximum of \$40 in this category.

Telephone:

Pat entered \$40 under the "other" category for her phone bill. The administrator asked whether someone in Pat's household was medically unstable enough to require a telephone for medical emergencies. Pat said that her three-year old was seeing a doctor regularly for asthma problems. The administrator explained that he could only budget in the cost for basic phone service, which was \$13.50 after considering the \$10.50 per month "lifeline" phone bill benefit Pat was receiving through her telephone company.

Transportation:

The only additional cost Pat thought she could include was her monthly car payment of \$250. Pat's husband had purchased the car on installment payments shortly before their divorce, and Pat received her car in the divorce settlement, except she had to take over the payments. The administrator explained that since Pat was unemployed, the car payment was not an allowed expense but that he could budget in the cost of "necessary" medical travel expenses at the rate of \$.28 per mile. The administrator calculated Pat would be traveling 120 miles monthly to bring her child to "necessary" medical appointments and so budgeted in a transportation cost of \$33.60 (120 x \$.28). He informed Pat that the next time she applied she would have to bring in statements from the doctor that Pat had to make the weekly trips to the doctor as a medical necessity.

Child Care:

When Pat prepared her budget, she included the \$10 per week cost of putting her two children in a day care center for a couple of hours a week. Because this cost was not a work-related expense, the administrator did not deduct this amount from her net income. If Pat had to use the childcare facility so that she could work, the related cost would be subtracted directly from Pat's income.

Once the budget has been completed, and the income is known, the determination can be made of the household's "deficit" and "unmet need."

Deficit & Unmet Need

The Deficit & Unmet Need Tests—A Summary

Two tests exist for calculating GA eligibility: the deficit test and the unmet need test. The **deficit** is simply the *difference between the applicant's **income** and the appropriate overall **maximum*** level of assistance for a household of the applicant's size. The values for overall maximum levels of assistance are found at Appendix A to MMA's model General Assistance ordinance.

No applicant is automatically eligible for his or her deficit. The administrator should also calculate the applicant's unmet need, which is the second eligibility test. The unmet need is the *difference between the applicant's **income** and that household's **30-day need***, which is determined by calculating the household budget, as described above.

The applicant will be eligible for only the **smaller** value between the **deficit** and the **unmet need**. No more assistance for that period of eligibility will be available to the applicant unless an emergency exists and the applicant is eligible for emergency assistance.

The administrator should be sensitive to the actual needs of an applying household where there is a large disparity between the applicant's deficit and unmet need, particularly during the heating season. The deficit is based on a somewhat arbitrary number. The unmet need, if calculated correctly, is a much more accurate indicator of real-life "need." In every circumstance, however, the administrator must justify issuing more assistance than available to the applicant "on paper" by articulating for the record the "emergency" situation that is being alleviated. *(For further discussion regarding the deficit and unmet need tests, refer to the section on "Eligibility" found earlier in this chapter.)*

Continuing on in our analysis, again using MMA's GA application (Sections 8 and 9), the following would depict Pat's eligibility:

8. Deficit

A. Overall Maximum Level of Assistance Allowed (See GA Ordinance Appendix A)	\$ 578	D. Deficit (If line A is greater than line B)	\$ 95
B. Income (See Section 4)	\$ 483	E. *Surplus (If line B is greater than line A)	\$ ----
C. Result (Line A minus line B)	\$ 95	* NOTE: If a surplus exists, applicant is not eligible for regular GA. Proceed to Section 9 to determine if "unmet need" results in eligibility for "emergency" GA.	

9. Unmet Need

A. Allowed Expenses (See Section 6)	\$1,071.10	D. Unmet Need (Amount from line C, but only if line A is greater than line B)	\$ 588.10
B. Income (See Section 4)	\$ 483.00	E. Deficit (See Section 8, line D)	\$ 95.00
C. Result (Line A minus line B)	\$ 588.10	F. Amount of GA Eligibility (The lower of line D and line E)	\$ 95.00

INSTRUCTIONS:

- 1) If Section 8, line B (income) is greater than line A (overall maximum), then applicant has a surplus of \$_____ and will not be eligible for General Assistance unless the GA administrator determines there is need for emergency assistance.
- 2) If Section 9, line A (allowed expenses) is greater than line B (income), the result will be an “Unmet Need” (line D).
- 3) If there is both an “Unmet Need” (Section 9, line D) and a “Deficit” (Section 9, line E), the applicant will be eligible for the lower of the two amounts. This lower amount is the amount of assistance the applicant is eligible for in the next 30-day period, or a proportionate amount for a shorter period of eligibility (e.g., if the applicant needs one week’s worth of GA assistance, they should receive 1/4 of the 30-day amount).

In this case, Pat’s maximum level allowed (*amount from GA ordinance—Appendix A*) was \$578). Pat’s TANF income is \$483. Therefore, the household “deficit” is \$95 (\$578 - \$483). The administrator now has to compare Pat’s deficit to her “unmet need” to determine eligibility for regular GA (non-emergency GA eligibility).

Determination of GA Grant

After working through both the deficit test and the unmet need test on Pat Johnston’s application for GA, the administrator determined that Pat’s deficit of \$95 is dwarfed by her unmet need of \$588.10. A disparity such as this between the deficit and the unmet need results is common. Once both the deficit and unmet needs tests have been calculated, the rule of thumb is that the applicant is only eligible for the lower of the two amounts. The result in this case is that Pat is eligible for only \$95 worth of assistance (the lower of \$95 and \$588.10) for a 30-day period, unless she is facing an emergency situation.

In this case, Pat was not facing an emergency. Although her food supplement benefit could not be considered as either income or a resource, Pat acknowledged that she had enough food supplement benefit to get by and was not seeking any food assistance. Pat had not paid her August rent and was worried about being evicted, but her landlord had waited for rent in the past and had not started an eviction action at this point. Pat was also behind on her electric bill, but the electric company was not threatening to disconnect her service.

Because Pat was not facing any clear emergency situation, the administrator felt that all he could issue at this point was her \$95 deficit, which Pat asked to be applied toward her electric bill. The administrator was not insensitive to the fact that Pat was getting behind financially and would clearly be facing some tough times during the upcoming fall and winter. For this reason, the administrator made it clear to Pat both orally and in writing that the town would be able to provide Pat more than the \$95 per month in “emergency” GA during the winter as long as Pat would work with the town by spending her income solely on basic necessities and by actively pursuing all other resources that could reduce her need for GA.

The administrator spent an extra half hour with Pat and they worked out a “get-through-the-winter” plan whereby Pat would (1) seek more affordable housing; (2) take 90% of her TANF check in the beginning of every month and apply that income toward her rent; (3) keep receipts of all her expenditures in an organized way for the administrator’s review; (4) apply for GA when necessary on the first and third Monday of every month; (5) work out a budget or special payment arrangement plan with the utility company; and (6) apply for HEAP/ECIP benefits as soon as the local CAP agency begins to accept applications.

In return, the administrator suggested to Pat that the town would be able to regularly apply GA for the purpose of Pat’s energy needs, because the lack of electricity or an adequate supply of heating fuel in the winter would generally be considered an emergency situation.

Presumption of Eligibility

All of the variables affecting or determining eligibility which have been discussed above ***may be waived*** by the administrator under certain circumstances, that is when the applicant is in an *emergency shelter for the homeless* **and** *the municipality has made prior arrangements with that shelter to presume shelter clients eligible for municipal assistance.* 22 M.R.S.A. § 4304 (3).

*This presumption of GA eligibility is made **entirely** at municipal discretion;* in fact, to *presume* someone eligible for GA runs somewhat counter to the eligibility determination process as outlined elsewhere in GA law, which generally calls for a written application and decision process. The primary purpose of this type of presumption would be so that those cities dealing with large transient populations could defer, for a short period of time, the paperwork necessary to establish GA eligibility.

Emergencies

The preceding discussion has focused on the first step of the eligibility determination process, which is the calculation of the difference between an applicant’s 30-day need for basic necessities and the applicant’s 30-day income. This calculation of an applicant’s “unmet need” and “deficit” is the first of two steps in the overall determination of an applicant’s eligibility for GA. The second step involves the determination of whether the applicant is in an “emergency” situation. It should always be remembered that General Assistance is both a non-emergency and emergency assistance program rolled into one, and as a matter of law, emergency GA is specifically available to people who would not normally be eligible. 22 M.R.S.A. § 4308(2).

This aspect of the law has caused considerable confusion in the past. If a person is eligible for emergency assistance when they are not otherwise eligible for GA, many administrators have wondered what purpose there is in determining eligibility at all.

Although GA is not a program intended to provide emergency assistance only, almost all applicants think their requests for GA are emergencies and very often the bulk of the administrator's time is spent averting or resolving emergencies. But because GA is not just an emergency program, and because emergency situations must be handled differently, an explanation of what constitutes a GA emergency is warranted.

State law defines an "emergency" as either: (1) a life threatening situation; or (2) a situation beyond the individual's control which, if not alleviated immediately, could reasonably be expected to pose a threat to an individual's health or safety. 22 M.R.S.A. § 4301(4).

Although the definition is clear, determining whether an emergency exists is not always so obvious. There are very few black and white situations in GA. Is going without electricity always an emergency? Is being without food an emergency? Is running out of oil or wood an emergency? Is not having shoes? Having no transportation? The clear, straightforward answer is...it depends!

Imminent Emergencies

Section 4308(2) includes a provision relating to "imminent emergencies." An imminent emergency is one where failure to provide assistance may result in *unnecessary cost and/or undue hardship*. An example of undue hardship relative to unnecessary cost would be a client incurring court costs for an eviction notice when such costs could have been averted if the municipality assisted with the past due rent at the time the landlord threatened eviction (*as opposed to waiting for a formal notice of eviction*). In such an instance, the unnecessary cost would be the court fees added to the cost of curing the eviction. (*Of course this example presupposes that the applicant is eligible for GA*). Because the GA applicant would be eligible for the assistance, the GA administrator is able (if they so choose) to assist the applicant *prior* to the receipt of an official eviction notice—avoiding having the applicant incur court costs.

Emergency Analysis

The place to begin any emergency analysis is *after* the determination of the applicant's "unmet need" and "deficit." Generally, applicants are only eligible for GA up to their unmet

need or deficit, whichever is less. If more assistance than the deficit/unmet need is required, the applicants have a burden of demonstrating that they are facing an emergency situation.

To look at it another way, applicants are eligible for an amount of GA *up to their deficit/unmet need (whichever is less) whether or not they are in an emergency circumstance*. Therefore, if the applicant's needs can be addressed within the maximum levels of assistance in the ordinance, the administrator need not concern him or herself with an analysis of whether the applicant's current circumstance is or is not an "emergency situation."

A careful review of the applicant's actual circumstances for the purpose of determining whether he or she is facing an emergency is only necessary when the applicant is either: 1) not eligible for GA because there is no unmet need/deficit; or 2) eligible for some GA, but not enough to cover all the applicant's requested needs.

In short, it is only when an applicant is requesting GA for which he or she is not automatically eligible that an emergency analysis need occur.

In conducting an emergency analysis the administrator should consider the following facts:

- whether it is an initial application;
- the household composition (e.g., infants, children, elderly, ill, disabled people);
- whether the situation was foreseeable;
- whether the situation was avoidable;
- any unusual or major changes in the household (e.g., medical problems, a lay-off, etc.);
- the consequences to the household if GA were not granted;
- the availability of other resources to reduce or eliminate the problem;
- whether the applicants had or currently have the opportunity or ability to rectify the situation;
- whether GA is needed immediately;
- whether the applicants have an eviction or utility disconnection notice or notice of tax lien or mortgage foreclosure;

- whether the situation, if beyond the applicants' control, poses a threat to their health or safety;
- whether the situation is life threatening (i.e., the applicants could conceivably die if relief were withheld);
- whether there is an imminent emergency that may result in undue hardship and unnecessary costs.

Considering these questions in conjunction with the type of assistance requested should help the administrator clarify whether an emergency exists. For instance, if a family is over income and requests food saying they are totally out, the administrator should consider such questions as: when will they receive their next check; are there relatives who are willing and able to help; is the family totally out of food or merely out of certain type of food, etc. If the household's next paycheck is due in two days, two days' worth of GA may be in order. If a local food bank, relatives or friends are available, GA may not have to be granted provided the applicants are willing to use these alternative sources of assistance. However, if a family member such as an infant or elderly person has special dietary needs not met by the local food bank, the administrator would have to consider that fact.

Alleviating Emergencies & Imminent Emergencies

When the administrator determines that the household is, indeed, facing an emergency such that more GA than the household is otherwise eligible for will have to be provided, the next determination is whether the municipality must grant the amount or type of assistance the applicant is requesting. In many instances, the emergency situation facing the household can be alleviated more cost effectively than by simply granting the applicant's request.

For example, if Anton Arcane, with no unmet need, applies to the selectpersons in Meddybemps because the bank is threatening to foreclose on his home, and the bank will not stop the foreclosure for less than \$2,000, the Meddybemps' selectpersons could issue a decision which indicates that Anton *is* or *will be* eligible for emergency GA to secure housing for himself and his family, but not at a cost of \$2,000.

The decision would direct Anton to seek alternative housing (i.e., rental property) which could be secured at a cost more in line with the housing maximum in the municipal ordinance. The decision would further direct Anton to contact the selectpersons for disbursement of his GA when such housing was found.

Documenting Emergencies

By regulation, DHHS requires some degree of documentation in the applicant's case file whenever emergency GA is granted. The documentation can take the form of a simple written statement describing the emergency situation in the administrator's own words. Such a written statement would be part of either the notice of eligibility issued to the recipient or on a separate narrative statement that would become part of the recipient's case file. The documentation can also take the form of a photocopy of the eviction or disconnection notice or any other written material submitted by the applicant to document his or her emergency need.

Limitations on Emergency GA

Under GA law, there are two situations when an applicant is not eligible for emergency GA. These are: (1) when the applicant is currently disqualified for violating the GA law; and (2) when assistance is requested to alleviate an emergency situation which the applicant could have averted with his or her own income and resources. 22 M.R.S.A. § 4308.

Disqualified Applicants

If people have been disqualified from receiving GA because they are fugitives from justice (§ 4301(3)), committed fraud (§ 4315), didn't comply with the municipality's work requirement (§ 4316-A), or didn't attempt to use potential resources to which they were directed (§ 4317), they are ***not eligible for any non-emergency GA or emergency GA during the time they are disqualified***. Therefore, if a woman is disqualified because she committed fraud but she applies to the town because she has an eviction notice, the administrator has no legal obligation to provide assistance during her 120-day disqualification.

It is important to remember, however, that the disqualification of a household member for a violation of a program rule does not affect the eligibility of any member of the household who is not capable of working (dependent minor children; caregivers for children under six years of age; elderly; ill or disabled persons or their caregivers). For further discussion regarding the continuing eligibility of these dependents when a household member has been disqualified, see "Dependents" in Chapter 4.

Misuse of Income

The other situation that would result in an applicant not being eligible for emergency assistance is when the applicant could have averted the emergency with available income and resources. Unlike the ineligibility for emergency assistance which occurs as a result of disqualification, this limitation on emergency assistance would affect the entire household's

eligibility. Under the law, **no** emergency, no matter how short or long term the emergency has been in the making, need be alleviated by the municipality with emergency GA **if** the applicant could have averted the emergency with his or her own income or resources. The law reads as follows:

Municipalities may by standards adopted in municipal ordinances restrict the disbursement of emergency assistance to alleviate situations to the extent that those situations could not have been averted by the applicant's use of income and resources for basic necessities. The person requesting assistance shall provide evidence of income and resources for the applicable time period.

The wording of § 4308(2)(B) creates questions and issues. For example, what happens when the applicant is really facing a life-threatening situation, such as homelessness or running out of fuel in sub-freezing weather? Would the limitation on emergency assistance still apply? What happens when the limit on emergency assistance yields eligibility that is not enough to alleviate the emergency? Does the administrator issue the assistance anyway? What happens when a *disconnection* emergency evolves into a *housing* emergency, or an applicant's emergency circumstance continues for an extended period of time? If an applicant could clearly have averted a utility disconnection, but didn't and is therefore ineligible for emergency GA, will he or she remain ineligible for emergency utility assistance from that point onward?

The answers to all these questions are not entirely clear, but it would seem that the history of this section of law may provide some guidance. The original purpose of § 4308(2)(B) was to limit the amount of assistance available to cure an unnecessary debt. Clearly, this section expands on that original purpose, but there is still evidence to suggest that when the request for emergency assistance, for whatever reason, moves from curing an unnecessary debt to providing for a prospective need, the mechanics of evaluating the emergency GA limitation, at least according to the MMA model ordinance, changes (see *Examples 3 and 4, below*).

A central factor governing the limitation on emergency assistance is the "applicable time period." The term "applicable time period" is found in the law at § 4308(2)(B), but is not carefully defined. It is reasonable to consider the "applicable time period" as the period of time which should be reviewed to determine an applicant's financial ability to avert an emergency situation. According to the MMA model ordinance, the applicable time period is generally the last 30 days, unless the emergency is the result of a "negative account balance," in which case the applicable period of time is the duration of that negative account balance. The following examples are offered as reasonable interpretations of the mechanics of emergency assistance limitation:

Example 1: Alfred Adler has received a seven-day eviction notice. He owes \$900. He has no deficit. The \$900 demanded by the eviction notice covers the last two months rent, and so the “applicable time period” of review for the purposes of determining any limit on emergency assistance is the last 60 days. A review of Alfred’s income during that period reveals that he had enough money to pay his rent, as well as all his other basic needs. Alfred is therefore denied any assistance.

Example 2: Melanie Klein applies for help with her utility bill. Melanie’s deficit is \$90 and her unmet need is \$390. The power company is threatening to turn off her electricity unless she pays a “repair amount” of \$450. The administrator learns that Melanie has not paid anything on her electric bill since a HEAP benefit was applied toward her account six months ago. Melanie is on TANF and receives, as a household of three, \$493 per month. With a rental payment of \$400 a month, and enormous fuel oil costs over the winter to heat her poorly insulated apartment, it is clear that Melanie may not have had a financial capacity to stay current with her electric bill. After Melanie provided proof that she had been spending her limited income on basic needs throughout the winter, the administrator processed her request for emergency assistance without imposing any limitation. If there is an imminent emergency such as a disconnection that will occur before the next paycheck is received, the municipality may choose to assist to avoid the extra cost of the reconnect fee.

Example 3: With a notice of mortgage foreclosure in hand, Otto Rank applies to the town for help. Otto was laid off from his job two months ago and is desperately trying to save his home. Early negotiations with the bank prove to be futile; the foreclosure will occur unless Otto makes a payment of \$2,400. The facts of the case are as follows: The \$2,400 debt represents Otto’s mortgage payments for the last four months; the applicable time period, therefore, is four months, which is the period of time Otto had a negative account balance with the mortgagee. Otto’s mortgage obligation of \$600 per month is \$50 over the applicable ordinance maximum for housing. Otto is currently receiving unemployment benefits and has no deficit and a \$20 unmet need. Prior to becoming unemployed, Otto had an income *surplus* of nearly \$400.

Given this information, and using the standards in the MMA model ordinance, the administrator determines that Otto is eligible for emergency assistance in response to the foreclosure not to exceed \$140. The administrator came to this figure by: 1) finding that Otto had sufficient funds to meet his mortgage obligation for the first two months of the applicable time period; 2) finding that Otto was financially unable to avert the emergency during the last two months of the applicable time period by the amount of: a) the \$20 per month unmet need; and b) the \$50 per month difference between Otto’s actual monthly mortgage payment and the ordinance maximum.

The administrator chose to use her discretion to disregard the difference between Otto's actual shelter cost and the ordinance maximum because it did not seem reasonable to hold Otto to the ordinance maximum given his recent and sudden unemployment. Upon reaching this decision, the administrator informed the bank that all Otto was eligible for to address the foreclosure was \$140. The bank indicated that it would not accept the \$140 payment. The administrator informed Otto of the bank's decision and asked how he wanted his assistance distributed. Otto got mad and left the office in anger.

Example 4: A week later Otto is back with a request for assistance for a new apartment. Otto still has a \$20 unmet need, but costs associated with getting into the new housing forces him to request \$200 in emergency assistance. As a matter of law, it would appear, the need for emergency assistance still revolves around the foreclosure, and Otto could not satisfy his burden of showing that he could *not* have averted the emergency. The same limitation on emergency assistance to \$140 could still be applied, therefore, as a matter of law. But under the MMA model ordinance, since the emergency assistance request no longer involves curing a past debt, the "applicable time period" to be used to determine any limit on emergency assistance *could* be reduced to 30 days. An analysis of Otto's previous 30-day income shows that he legitimately did not have sufficient resources to avert the emergency, and so Otto would be eligible for that assistance.

With regard to the calculation of eligibility for emergency assistance, a couple of points should be noted. First, when attempting to determine whether the applicant could have financially averted the emergency, the administrator should rely on the applicant's unmet need during the applicable time period, rather than the applicant's deficit. The deficit is a somewhat arbitrary number that may or may not reflect what any particular household reasonably needs to get by over a 30-day period. The unmet need, on the other hand, is a much more accurate representation of the financial needs of the household. All emergency GA decisions made by an administrator—whether the emergency GA is granted, partially granted, denied or limited—are quickly subject to second guessing and challenge. The most an administrator can do is issue a decision that has a clear rationale; that is, the reasonableness of the decision can be clearly explained in relation to the factual circumstances and the pertinent provisions of law or local ordinance.

CHAPTER 3 – Eligibility / Other Conditions

Once the administrator has determined that the applicants are in *need* (i.e., their income is less than the maximum levels of assistance), the administrator's next step is to consider other eligibility conditions. Generally, these eligibility conditions apply only to people who are *not first-time applicants*, i.e., people who have applied for GA at some time in the past, although below we discuss several exceptions to this rule.

Fugitive From Justice

A person who is a fugitive from justice as defined in 15 M.R.S.A. § 201(4) is ineligible for general assistance. A fugitive from justice is essentially anyone accused or convicted of a crime in another state and whose presence is demanded by that state. (See 15 M.R.S.A. § 201(4) for a complete and detailed definition of “fugitive from justice”.)

Work Requirement

Everyone who is able to work is expected to fulfill the work requirement (§ 4316-A). People who violate the work requirement are *ineligible to receive GA for 120 days*, except under certain circumstances (*see “Just Cause,” below, and “Eligibility Regained,” in Chapter 3*).

People are *considered* able to work *unless* they are mentally or physically ill or disabled, or if they are the only person in a household available to care for an ill or disabled member of the household or a child who is not yet in school.

If applicants claim they have an illness or a disability which prevents them from working, they must give the administrator a *written statement from a physician certifying that they can't work* unless their inability to work is plainly apparent, in which case the documentation would not be necessary.

GA administrators should require that medical letters from physicians include, the extent of disability (e.g., 100%), the duration the person is anticipated to be “disabled,” specific work restrictions if the individual is not completely disabled, and possibly the date of next re-evaluation.

The work requirement means that in order to be eligible for assistance people must:

- look for work;
- accept work;

- register for work with the Maine Job Service;
- participate in a municipal work-for-welfare (workfare) program;
- not quit work and not be discharged for misconduct; and
- participate in an educational or work training program.

Just Cause

If people refuse or fail to fulfill the work requirement *without just cause*, they will be ineligible to receive GA for 120 days. Determining whether applicants had just cause for not fulfilling the work requirement can be very difficult, but essentially it depends on whether they can show that they had a good reason. Just cause is defined as a “valid verifiable reason that hinders the individual from complying with one or more conditions of eligibility” (§ 4301(8)). Specific excuses, which would be considered just cause, include:

- a physical or mental illness or disability that prevents a person from performing work duties;
- receiving wages that are below minimum wage standards;
- being sexually harassed at the workplace;
- inability to arrange for necessary care for children, or ill or disabled family members;
- any other reason that the administrator thinks is reasonable and appropriate.

If applicants have not complied with the work requirement and they cannot show that they had just cause, the administrator should immediately and formally (i.e., in writing) disqualify them for 120 days. Before the administrator disqualifies the applicants, however, he or she should attempt to determine if they acted with just cause.

For example, if a man quit his job because he didn’t get along well with his boss, that is not just cause. But if he quit his job because he had to work nights and no one was available to care for his young son and daughter, that would be just cause. Therefore it is critical to inquire into the reasons behind someone’s failure to comply with the work requirement. Just because the administrator should undertake this type of inquiry does not mean that the municipality has a burden of proving that there was no just cause reason for the work-related failure. In fact, GA law places the burden of proof squarely on the applicant. 22 M.R.S.A. § 4316-A (1).

Illness

One common excuse for failing to fulfill the work requirement is illness. If a person claims a long-term physical or mental illness or disability, he or she must present a doctor's statement verifying that he or she is unable to work or detailing the work restrictions the applicant has. However, the administrator cannot require a recipient to produce medical verification if a condition is apparent or of such short duration that a reasonable person would not ordinarily seek medical attention. If the municipality requires medical verification and the person has no means to pay for the exam, the municipality must pay but may choose the doctor. 22 M.R.S.A. § 4316-A(5).

The question of medical verification can cause a problem when people on workfare don't show up for their assignment and attribute it to being sick. If it's just for a day, it is not necessarily reasonable that they see a doctor. Some municipalities require people to call in sick; however, if they don't have a phone and they are sick this requirement is impractical. Again, the key is reasonableness. For instance, the ordinance could require that people who claim they are sick and fail to fulfill the workfare assignment on two out of three days must have medical verification; and if they cannot produce it the administrator will disqualify them for willfully failing to perform workfare without just cause. A municipality could allow a person to miss one day without calling in if the recipient has no phone. However, if the recipient didn't show up for work and did not call or otherwise give notice to the administrator the following day, the administrator could disqualify the recipient if he or she couldn't show just cause.

If your municipality wants to develop specific standards to further clarify the general concept of "just cause," those standards should be contained in your ordinance or written out on the recipient's decision of eligibility in order for them to be enforceable.

Example: Joe Morgan was laid off from work. His unemployment compensation has expired so he needs GA. He has received GA for about one month and has been looking for work, plus doing workfare. Today when he applied, he told the GA administrator that he didn't look for work last week because he was too frustrated looking for work and always getting rejected. Although he had completed his workfare assignments, Joe said he wouldn't do any more workfare because it wasn't getting him anywhere. The administrator disqualified him for 120 days, but told him he could be eligible again if he fulfilled the work requirement.

One week later Joe came in to reapply for assistance. He gave the administrator proof that he had applied for work at the required number of places and he agreed to do workfare.

Because he had fulfilled the work requirement, the administrator revoked his ineligibility status and gave him GA for a week.

Example: It was the first time Sherry Norris applied for GA. She was unemployed, her husband had just left her, and she had no money. Because she was in need and it was her initial application, Sherry was granted assistance. She was told that she would have to look for work and also do workfare. Sherry agreed to do 15 hours work for the assistance she received. She worked five hours but never came back to finish the assignment. When she applied for assistance the next week the administrator disqualified her until she completed her assignment. She agreed. When she did her remaining ten hours of work she reapplied for GA, agreed to do workfare in the future and was granted assistance. She had regained her eligibility because she complied with the workfare assignment.

Example: Jonathan and Jill London applied for GA for their family. Jonathan received Supplemental Security Income (SSI) for an undisclosed disability, but he was able to care for their two small children. Jill was informed that she would have to apply for work too at least three separate employers a week in order to be eligible for future assistance. Jonathan said that no wife of his was going to work, and informed the administrator that Jill would not be looking for any jobs. The administrator disqualified Jonathan and Jill from receiving GA for 120 days, but noted in her decision the eligibility of the London's two children. Section 4309(3) provides that no dependents (or persons whose presence is required in order to care for dependents) will lose their eligibility due to the ineligibility of other members of the household (*see "Dependents," in Chapter 4*).

Job Quit & Discharge for Misconduct

GA law has long provided that when a municipality establishes that a non-initial applicant has quit his or her job without just cause, that person shall be disqualified from receiving GA for an extended period of time, now 120 days. The policy behind this provision of law is very clear; that is, GA recipients are expected to utilize in all good faith the advantages of employment in order to reduce their need for ongoing public assistance.

Despite the clear intention of the law, municipal administrators were sometimes frustrated when employed recipients did not quit their jobs but behaved in such a way at their workplace that they were discharged from their employment for misconduct. A Maine Supreme Court decision, *Gilman v. Lewiston*, 524 A.2d 1205 (Me. 1987) ruled that the ineligibility due to job quit could not be applied to applicants who were discharged for misconduct. As a result, in 1991, the Legislature addressed the issue by amending GA law in such a way that municipalities were authorized to disqualify for 90 days (the disqualification

period at that time) any *non-initial* applicant whom the administrator established was discharged from his or her employment for misconduct, as misconduct is defined in Maine law at 26 M.R.S.A. § 1043(23). (*See below for a full discussion of this definition.*)

A next milestone in the evolution of this ineligibility status (which has the effect of a disqualification) procedure occurred in June of 1993. The Legislature amended GA law to disqualify for **120 days any applicant**, *including any initial applicant, when that applicant quit his or her job without just cause or was discharged from employment for misconduct*. In making this change, the Legislature also clarified that the 120-day disqualification for job quit or employment discharge would commence *on the date of separation from employment*.

In this respect, the ineligibility period for unwarranted job quit or discharge for misconduct is designed differently than the ineligibility for a work search or workfare-related failure. In the case of a work search or workfare failure, only repeat applicants could possibly be subject to disqualification, and the 120-day disqualification period does not begin until the administrator becomes aware of the work search or workfare violation and formally notifies the GA recipient of their ineligibility.

In the case of *job quit or discharge for misconduct*, the 120-day ineligibility period is to be applied to **all applicants**, whether or not they are initial or repeat applicants, and the disqualification period begins automatically on the date of job separation, which typically occurred days, weeks, or even months in the past.

More About Misconduct

First, it is unclear what relationship exists, if any, between GA law and the significant body of legal precedent established as a result of processing claims for unemployment benefits pursuant to Maine Unemployment Compensation law. It is fair to say that in the context of determining eligibility for unemployment benefits, disputes often surface between the discharged employee and his or her employer as to whether the employee's actions which led to discharge were actually "misconduct" as a matter of law. These disputes are usually resolved by means of a hearing held and determination issued by a Hearings Officer with the Department of Labor.

The Hearings Officer's determination, of course, is subject to appeals into the courts, and a body of case law has developed which provides further guidance as to what is and what is not "misconduct." Because GA law specifically cites the definition of "misconduct" in unemployment law, it is very probable that if a GA disqualification for misconduct was

appealed into the courts, the judge would apply unemployment case law to the facts before the court to reach a decision.

Given this set of circumstances, GA administrators in the past often elected to put off making a decision as to whether a particular discharge was due to “misconduct” until the Department of Labor Hearing Officer had issued a determination. That is, the GA administrator was well advised to rely on the special expertise of the Hearing Officer. Currently, given the status of the law which now starts the ineligibility period at the date of job separation, it no longer makes sense to wait until a determination of the Department of Labor because by that time the ineligibility period would be partially or entirely used up. In short, one consequence of the current unemployment law for the GA program is that more pressure is on municipal administrators to determine in a timely manner and on their own whether or not the discharge from employment was due to “misconduct” or not.

Furthermore, a determination by the Department of Labor is *not* available to a discharged employee who is not eligible for unemployment benefits because the employee does not have a sufficient base of previous earnings from which to draw current benefits. Therefore, many GA recipients who may get discharged for misconduct will not have an opportunity for their case to be heard by the Department of Labor. In this circumstance, also, the municipal administrator will need to determine if the actions for which the employee was discharged reach the level of misconduct.

Because it is to the employer’s financial advantage to discharge for misconduct rather than simply lay employees off, it is sometimes the case that the employer’s claim of misconduct is not credible. At the very least, GA administrators should inquire as to the specific reasons the employee was discharged, what rules were violated, whether the employee had received verbal or written warnings, the nature of the employee’s long-term record, whether other employees had been discharged for similar behavior, and so on.

In cases of egregious employee misbehavior, such as when the employee deliberately and willfully damages the employer’s property or causes harm to fellow employees, the GA administrator can easily justify a 120-day ineligibility period.

In cases where the alleged violation is less certain, the administrator may wish to consult the municipal attorney, MMA or other sources familiar with the legal concept of employee misconduct. For more guidance, a summary of selected cases regarding the issue of misconduct are found at Appendix 5.

Misconduct Defined

The definition of misconduct up until spring of 1999 contained a very difficult standard to meet, one which required that the employer prove that the employee committed an offense which “evinc[ed] such willful and wanton disregard of an employer’s interest as is found in deliberate violations...of the employer’s interest...” The definition of misconduct, after the Legislature’s 1999 amendment, currently reads in part:

“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.

- The new definition of misconduct also contains a non-all-inclusive list of 14 acts or omissions which are “presumed to manifest a disregard for a material interest of the employer.” Acts and omissions on the list include: Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- Failure to exercise due care for punctuality or attendance after warnings;
- Intoxication, illegal drug use or being under the influence while on duty or when reporting to work;
- Unauthorized sleeping while on duty;
- Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer.

The new definition of misconduct (subpart B) however, contains several mitigating factors, which if established, could serve to overcome misconduct otherwise established. This part of the statute provides that misconduct cannot be found solely on:

1. An isolated error in judgment or failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
2. Absenteeism caused by illness or the employee or an immediate family member if the employee made a reasonable effort 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.

As a result, municipalities analyzing misconduct for purposes of the work requirement under the GA program must be certain to review subpart B—the mitigating factors just mentioned—whenever performing a “misconduct” analysis. (*See Chapter 13, page 211 for a copy of the entire definition of misconduct—26 M.R.S.A. § 1043 (23).*)

Municipal Work-for-Welfare Program (Workfare)

In addition to requiring recipients to seek work in the private sector, the municipality also has the option of establishing a *workfare* program. The workfare program allows municipalities to require GA recipients to perform work for the municipality or a non-profit organization in return for any assistance they receive (§ 4316-A (2)). For a sample agreement governing workfare referrals between a municipality and a non-profit organization, see Appendix 7 and 12. Before a municipality can institute a workfare program, the municipal officers must adopt it as part of the GA ordinance. The MMA model GA ordinance contains language authorizing the operation of a workfare program. After its adoption the municipality can require physically and mentally able people to do work for the municipality. State law specifically exempts from workfare people who are incapable of performing the workfare assignment for reasons of mental or physical incapacity. Also exempted are people who must stay home to care for a child who is not yet in school, or for any ill or disabled member of the household.

Just Cause

Once a municipality adopts workfare, if a recipient refuses to participate in the workfare program or if he or she agrees and then willfully fails to complete the assignment or performs the work assignment below average standards *without just cause*, that individual is to be disqualified for 120 days. The just cause provisions are the same as those for the “*work requirements*,” (see the first page of this Chapter).

However, no dependents in the household can be disqualified merely because another household member has not complied with the workfare requirement.

Limitations

There are some limitations on how workfare is administered:

- In no case may a person be required to perform workfare prior to receiving assistance *when that person is in need of and eligible for **emergency** GA.*
- *No workfare assignment can interfere with a recipient's existing employment.* The MMA model GA ordinance captures this non-interference rule by limiting the total workfare assignment to **40 hours per week**. Any hours of actual employment for which the recipient is scheduled to work would be subtracted from the workfare 40-hours per week maximum. Therefore if a person is working full-time, the administrator cannot require participation in the workfare program. If a person works part-time, for instance 15 hours a week, the maximum number of hours he or she could perform workfare would be 25 hours. If a person is also expected to search for work, the administrator should make sure there is adequate time to look for work.
- The number of hours a person must work is determined by the amount of assistance granted. *The number of hours is determined by dividing the amount of assistance granted by at least the minimum wage rate.* For instance, if a person received \$100 for food and rent, he or she would have to work about 13 hours (\$100 divided by \$7.50—State Minimum Wage). *No person may be required to work more hours than the value of the assistance received. Furthermore, in no event may a person be required to work more than 40 hours.*
- Workfare, as well as the work requirement, cannot interfere with a recipient's existing employment, ability to attend a job interview, or participation in an education program intended to lead to a high school diploma. Further, it cannot interfere with participation in a training program approved or determined by the Department of Labor to be reasonably expected to help the individual get a job. Workfare must be arranged around people's schedules if they are in an approved training or educational program. However, no special allowances need to be made for college students who are not in a study program operated under the control of the Department of Health and Human Services or Department of Labor.
- *Workfare cannot be used as a way to replace regular municipal employees.* In other words, a town cannot fire employees or reduce their hours simply because it wanted workfare recipients to perform the same work.
- No recipient may be required to perform workfare for a non-profit organization if that *would violate a basic religious belief of the recipient.*

Background

Because workfare is one aspect of the work requirement that municipalities have the *option of adopting* and have virtually complete control over, it is important to examine it at greater length. Although working for welfare is a concept that has been around since the days of “poor farms,” and later the WPA during the Depression, workfare as it is currently known was enacted by the Legislature at MMA’s request in 1977. If administered responsibly and creatively, workfare can enhance the self-esteem of the GA recipients who are pleased that they are working for their assistance, while also helping the municipality get jobs done that might never have been accomplished. A workfare program can save the municipality money by discovering those people who don’t really need GA and refuse to work. Most importantly, a workfare program can give GA recipients job skills, confidence and job references which could lead to permanent employment.

A workfare program will be successful if the municipality attempts to administer the program with the idea that workfare is a worthwhile program, not a punishment or just a way to decrease GA costs and end welfare fraud. The job assignment should be for work that the municipality truly needs done; that way recipients will know that their time is being spent meaningfully. “Make work” assignments should be avoided or minimized to the extent possible since these assignments usually result in poor performances by the recipients. Not all workfare assignments are going to be attractive or exciting to the recipients, but the administrator should stress that if the recipient performs well, the administrator or the site supervisor could be used as a job reference.

If a municipality establishes a workfare program, it is critical that the municipal employees cooperate. The municipal employees should be aware that they should treat the workfare recipients decently. The employees are also a good source for suggesting possible job assignments that they know need to be done but they can’t get to at all or as soon as necessary.

Another way for municipalities to help their GA recipients is to encourage those without a high school diploma to return to school or take classes to receive their GED (Graduate Exam Diploma). Since a high school diploma is the key to many job opportunities, it makes sense for municipalities to waive the workfare requirement for recipients who agree to go to school, with the understanding that if they do not attend classes they will be assigned to do workfare. For more detailed discussion about implementing a workfare program, see Appendix 6.

Workfare First

Municipalities are authorized to withhold the issuance of *non-emergency* GA until the successful completion of a workfare assignment. It should be noted at the outset that “workfare-first” is not a requirement of law; the administrator may continue to administer the town’s workfare program just as it has been administered in the past. Requiring applicants to work before their welfare is issued is a procedure that the administrator may use at his or her discretion. In other words, *a “workfare-first” system has been established as an option available to municipal GA administrators.*

The MMA model GA ordinance includes some guidelines governing this procedure and otherwise provide the necessary protections to the workfare participants. Those guidelines cover the following “workfare first” issues.

Workfare First Guidelines—Emergency GA

Under *no circumstance* may the administrator withhold the issuance of *emergency GA while a recipient is performing workfare*. This means that if an applicant is eligible for and in need of immediate assistance to alleviate a life-threatening situation or a situation posing a threat to health or safety, that amount of assistance will be immediately issued. A workfare assignment can still be created to cover the value of that emergency assistance. It is only the case that the *recipient of that assistance cannot be compelled to perform workfare prior to the assistance being issued.*

Workfare First Guidelines—A Description of the Grant of Assistance

Just because the law now authorizes a “workfare first” procedure does not mean that the eligibility determination process can be delayed until a person “proves” him or herself by working for the municipality. There has been absolutely no change in GA law with regard to an applicant’s right to receive a written decision of eligibility within 24 hours of applying for assistance. Furthermore, if that grant of GA is to be granted on the condition that an assignment of workfare is first performed, that written decision must include enough specific information so that the recipient clearly understands his or her rights and responsibilities. To begin with, the recipient must be informed up front about the actual grant of assistance that will be issued upon the successful completion of the workfare assignment.

For example, a “workfare first” decision might read: “You have been found eligible to receive, upon the successful completion of the workfare assignment described below, \$175 for October’s rent in the form of a rental voucher to your landlord, \$40 toward October’s

light bill issued to the utility company, and \$50 for heating fuel issued to the local fuel oil dealer.”

Workfare First Guidelines—Minimum Hourly Rate

No workfare participant can be required to work for the municipality more than the value of the grant of general assistance divided by the prevailing minimum wage. In calculating the duration of a workfare assignment, municipalities may use a workfare “wage rate” that is higher than the prevailing minimum wage. Whatever workfare rate the municipality elects to use in this calculation, the total value of the grant, the rate upon which the duration of the assignment is calculated, and the total number of hours of the workfare assignment that must be successfully completed before the issuance of the GA benefits must be clearly *spelled out* in any “workfare-first” decision. The participant has a right to understand the specific terms of such an agreement before assenting to those terms or, withdrawing his or her application for assistance.

It is important to keep in mind that there is always the possibility that under a “workfare first” arrangement the workfare participant will perform some of the workfare assignment, but not all of it. Hopefully, it is obvious that under that circumstance the workfare participant will be unconditionally eligible for an amount of GA that equals the number of hours successfully worked times the hourly rate by which the duration of the workfare assignment was calculated. It is for this reason that it is especially important that the applicable hourly rate is a matter of record.

Workfare First Guidelines—Description of Workfare Assignment

Another component of a complete workfare decision is a general description of the workfare assignment. It would be unreasonable to expect a person to enter into a workfare contract with the municipality without having any sense of what type of work the town expects the participant to perform. Whether the assignment will be (e.g., town’s transfer station to sort recyclables, the town office for clerical-type duties, the Road Commissioner for road work, the library for painting, the school for janitorial work), a brief description of the job to be done should be provided the applicant in writing, along with: (1) the day or days of the assignments; (2) the work site; (3) the time of day the participant is expected to show up at the work site; (4) the supervisor or contact person; (5) the telephone number to call in the case of absence; and (6) in the case of “workfare first,” the amount of workfare that must be successfully performed before the GA grant will be actually issued.

Workfare First Guidelines—Agreement to Perform Assignment

It is very important that all workfare participants agree in writing to perform the workfare assignment given them. The successful performance of a workfare assignment is a condition of eligibility, and some applicants may decide that they do not really need the GA they are requesting given the workfare assignment they would have to perform in return. Those applicants should be given an opportunity to withdraw their application for assistance.

The way to determine any applicant's willingness to accept the workfare assignment is by asking that applicant to sign a workfare agreement form. MMA has such a form in its package of GA materials, and a copy of the MMA workfare agreement form is found at Appendix 7. If a person is unwilling to sign a workfare agreement form, the administrator should ask the applicant if he or she intends to withdraw the application for assistance. If so, a record of that withdrawal should be placed in the case file. If not, that applicant would be disqualified from receiving GA for 120 days for a refusal to perform a workfare assignment without just cause.

The need for "good" paperwork is demonstrated in the case where a person is given a "workfare first" assignment and never shows up at the job site. In one such case, the individual accepted the fact that the GA grant would be terminated, but objected to being also disqualified for 120 days, given the fact that the town had issued no assistance to him. It seems that the most straightforward way to deal with this circumstance is to make sure that before they are asked to sign a workfare agreement form, all workfare participants are clearly informed of the consequences of failing to perform the workfare assignment. If the workfare participant is provided this information, signs the workfare agreement form, and then fails to perform the workfare assignment, he or she would be unable to then claim that the non-performance should be construed as a *de facto* withdrawal of application.

Workfare First Guidelines—Consequences of Failing to Perform Assignment

As just discussed, the other important information that should be conveyed to all workfare participants, including "workfare first" participants, concerns the consequences of failing to perform the workfare assignment.

When a person is given a "workfare first" assignment, there are three possibilities. Hopefully, the participant will successfully perform the assignment and then be issued the assistance as granted. The entirely contrary possibility is that the participant will not show up for the assignment. The third possibility is that the participant will perform some of the workfare assignment, but not all of it.

Under any type of workfare assignment, when the participant fails to perform some or all of the assignment without just cause, that individual *shall be found ineligible to receive GA for a period of 120 days*. There is a procedure, discussed below, for that individual to regain his or her eligibility within the 120-day period, but the first procedural step after it has been determined that the participant has failed to perform the workfare without just cause is the imposition of the 120-day ineligibility period.

In addition, when the workfare assignment is a “workfare first” assignment, the GA that was conditionally granted should be terminated after a participant has failed to perform the workfare assignment. *A **termination** of a grant of GA must be communicated to the recipient in writing, along with the recipient’s appeal rights, just like a notification of ineligibility.*

When a participant simply fails to show up for the workfare assignment or has otherwise totally failed to perform the assignment, the notice of termination to the participant would read something to the effect:

...the entire GA grant, conditionally granted on such-and-such a date, is being terminated for a complete failure to perform the workfare assignment, without just cause, as that assignment was described in the GA decision.

It gets a little more complicated when the participant performs some of the assignment satisfactorily, but fails to perform the entire assignment. In that case, the participant is unconditionally entitled to an amount of GA equal to the number of hours successfully worked times the workfare “wage rate” used to calculate the duration of the workfare assignment. The remaining amount of the original GA grant would be terminated, and a notice must be issued to the participant that clearly spells out the value of the GA being issued and the value of the GA being terminated, the reasons for the partial termination, and the workfare participant’s appeal rights.

Workfare First—A Summary

Legislation enacted in 1993 authorizes—but does not require—municipalities to grant non-emergency GA benefits conditionally on the successful completion of a specific workfare assignment. In order to implement a “workfare first” procedure, GA administrators should clearly inform all “workfare first” participants about the grant of assistance being conditionally issued, the workfare assignment and when and where it is to be performed, the way in which the duration of the workfare assignment was calculated, and the consequences to the participant of entirely or partially failing to perform the assignment without just cause.

After being provided this information, the workfare participant should sign a form that establishes the participant's agreement to perform the assignment under the specified terms and conditions. This type of paperwork should be in place for any type of workfare program, either traditional workfare or "workfare first" assignments. The only practical difference is that under "workfare first," there is a more likely possibility that a participant will successfully perform some part of a workfare assignment and yet not receive the GA benefits to which he or she would then be unconditionally entitled. This potential for claims against a municipality can be greatly reduced with a written record of quality.

Workers' Compensation

One troublesome aspect about workfare is the possibility of a recipient being injured while performing workfare. The question of whether workfare recipients are considered "employees" for the purpose of receiving Workers' Compensation was decided by the Maine Supreme Court in *Closson v. Town of Southwest Harbor*, 512 A.2d 1028 (Me. 1986). The Court held in *Closson* that the workfare requirement is imposed on a recipient *as a condition for continued eligibility and as there is no contract for hire, an applicant is not entitled to receive compensation for injury under the Workers' Compensation Act*. Therefore liability for injuries incurred during the course of a workfare assignment falls directly on the municipality.

Municipal liability for injured workfare recipients is certainly a cause for concern and something to be aware of. As a result, prior to establishing a workfare program, a critical step is to ensure that the municipality's general liability provider ***has expressly covered workfare participants under the municipality's general liability insurance policy!***

Next, it is important for administrators to attempt to match recipients with "appropriate" work assignments—jobs that match both the physical and mental abilities of the client. This is important for both reasons of fairness and safety. It would be unwise, for instance, for a municipality to assign a man with a bad back to woodcutting and hauling heavy brush, or a woman with heart problems to shovel snow. Also potentially too risky is the use of "power tools" in workfare assignments. But there are many jobs that do not require heavy work or power equipment: typing, filing, answering the phone, photocopying, sweeping, raking, etc.

One other critical aspect to remember is that ***all workfare recipients must be supervised***. If a municipality doesn't have sufficient staff to supervise recipients it should not require people to do workfare.

This vigilance, which is warranted in the administration of a workfare program, should not put a damper on establishing or administering a workfare program provided that the municipality assigns people sensibly and takes the necessary precautions. In summary, with the proper doses of common sense and imagination the workfare program can be a benefit both to the municipality and the recipient.

Eligibility Regained

People who *violate the work requirement*, including workfare, can be found *ineligible for 120 days*. However, the statute does provide that people *may become eligible again during their 120-day disqualification* period “by becoming employed or otherwise complying with the work requirements.” 22 M.R.S.A. § 4316-A (4).

Therefore, if an applicant fails to apply for employment at the local Maine Job Service office or fails to adequately or in good faith perform a “job search” which the administrator expressly required, that applicant could be disqualified from the program for 120 days. If a week later, the same applicant applied for GA and showed the administrator that all job search requirements had been met; he or she would regain eligibility and be back in the program.

The purpose of the work-related eligibility requirements is not to arbitrarily punish people. Instead, the work-related rules are designed to encourage people to make every effort to reduce or eliminate their reliance on public assistance. Therefore, if people are disqualified for refusing to look for work or otherwise fulfilling the work requirement, they may regain their eligibility if they comply with the requirements contained in the ordinance.

Eligibility Regained—Workfare Disqualification

Workfare participants who do not complete their assignment may also regain their eligibility. A 1991 amendment to § 4316-A(4) provides municipalities with the authority to limit the number of opportunities a workfare participant must be given to regain eligibility. The municipality is now required to provide *only one opportunity to a workfare participant to regain eligibility after a workfare failure*, but if the participant fails to take advantage of that single opportunity, without just cause, the municipality can refuse to provide subsequent opportunities to regain eligibility for the duration of the 120-day ineligibility period.

In spite of the 1991 amendment that limited participants to one single opportunity to regain eligibility, many welfare directors reported their frustration with some participants who would get disqualified for a workfare violation, regain their eligibility by taking advantage

of the single opportunity provided to them, only to subsequently become disqualified shortly thereafter and expect yet another opportunity to regain eligibility. In response, a 1993 amendment to that same subsection of law was enacted that established a two-strikes-and-you're-out procedure. The 1993 amendment makes it clear that even if a workfare participant successfully regains his or her eligibility by taking advantage of the single opportunity to regain, but then commits yet another workfare violation within the 120-day window of the original ineligibility period, then the administrator shall issue a new 120-day ineligibility for the subsequent failure, from which there is no opportunity to regain eligibility (*Second Example below*).

Example: Jimmy Roth received \$255 in GA toward his rent. Jimmy was unemployed and appeared very willing to perform workfare. The administrator explained the program to Jimmy and secured his signature on a workfare agreement form. Jimmy was assigned work at the town's recycling facility for 7.5 hours for Saturday and Sunday of each weekend for a total assignment of 60 hours for the next 30 days. The administrator gave Jimmy clear instructions in writing to call the town office if for any reason he would not be able to perform his assignment.

On the first Saturday, Jimmy showed up on time but complained all day long to everyone within hearing distance about the work assignment. He did not show up the next day and he did not call the designated supervisor as he had been instructed. After being informed about Jimmy's failure to do his Sunday workfare, the administrator sent Jimmy a notice of ineligibility in the mail that formally disqualified Jimmy from receiving GA for the 120-day period commencing on the first day after the current period of eligibility—for which he had already received assistance—was over. Jimmy didn't respond to the notice of ineligibility.

Five weeks later Jimmy applied for GA to cure an eviction notice. The administrator explained to Jimmy that he was disqualified and therefore ineligible to receive any form of GA while disqualified. The administrator further explained that Jimmy had one single opportunity to regain his eligibility. Jimmy said that he wanted the single opportunity, and he was assigned to work the next available day at the transfer station. He put in a good day's work and was readmitted into the GA program. Because Jimmy took himself out of the GA program for five weeks, the administrator limited his assistance to his deficit only. His request for more assistance than his deficit was denied because he could have averted the eviction emergency had he made more appropriate use of his resources; namely, General Assistance. Fortunately, Jimmy was able to work out a deal with his landlord to avoid eviction. Because of his uneven work history with the town, the administrator began limiting Jimmy to 7-day's worth of GA at a time for a couple of months with weekly workfare assignments, but Jimmy never again violated his workfare agreement.

Example: George Bodwell failed to show up at the High School on October 1, 2000 for his workfare assignment and he offered no excuse except that he had “girlfriend problems.” The administrator disqualified George for 120 days, or until January 28, 2001.

In mid-November George reapplied for GA for some heating fuel because he was nearly out. After being reminded of his ineligibility, George said that he wanted to get back in the program and was willing to perform the workfare assignment. The administrator informed George that he would have to successfully perform the workfare assignment before he could become eligible for assistance. George said his lawyer told him that the town could not withhold emergency assistance while a person did a workfare assignment. The administrator explained that the law regarding the withholding of emergency GA pending workfare performance applied only to people who were eligible for GA, and until George made up the workfare assignment, he was categorically ineligible for any type of GA.

George agreed to perform the assignment, went to the High School that evening and the next, completely caught up on his workfare assignment, and regained his eligibility. The fuel oil was provided, as well as some food and personal care assistance that George requested.

A month later, on December 15, George again applied for GA, this time for rent. The administrator granted George the assistance he was eligible for and gave him a workfare assignment, this time at the Public Works garage. The Road Commissioner called the administrator the next day to let her know that George stopped by the garage just long enough to tell anyone that would listen that “there was no way he was going to do anything for the stupid town.”

Because this second violation of workfare fell within the original 120-day disqualification period (October 1 through January 28), the administrator formally disqualified George for a new 120-day period, from December 16 through April 15, and that he would be given no opportunity to regain his eligibility during that period of time. Had George’s second workfare violation occurred after the original 120-day period of ineligibility (i.e., sometime after January 28), he would still be disqualified, but a single opportunity to regain eligibility would be available to him.

Workfare & Recovery

In the *Closson* decision cited above, the Maine Supreme Court characterized the essential purpose of workfare as a GA program requirement to secure a recipient’s future eligibility for GA rather than an exchange of service for compensation or remuneration. On the other hand, workfare participants do contribute their labor at a rate which is designed by law to at

least conform to the prevailing minimum wage. To be in compliance with DHHS's record-keeping requirements, a careful record should be kept of all GA which a participant "works off" satisfactorily. In addition, as a matter of fairness, the workfare participant should be informed that the municipality will not be seeking recovery for the portion of the assistance "worked off" (i.e., workfare performed). (*For further discussion on the issue of "Recovery of Expenses" see Chapter 8.*)

As a related issue, a municipality, which has issued GA for a mortgage or capital improvement payment, may place a lien on that property (*see "Mortgages," see Chapter 7*). The municipality must deduct from the lien amount any satisfactorily performed workfare (*at a rate of at least minimum wage*) and formally discharge the lien if and when the entire value of the mortgage assistance has been worked off.

SSI Interim Assistance Agreements

The Department of Health and Human Services is authorized to recover GA issued to a recipient who is waiting for the determination of SSI eligibility. Under the terms of the so-called SSI "Interim Assistance Agreement" program that has been instituted between the state and federal governments, any GA that has been issued to a person who has applied for SSI and is waiting for a determination of eligibility may be recovered from that person's initial, retroactive SSI check if such a check is subsequently issued by the Social Security Administration to the individual. The way this process works, the retroactive SSI check is mailed directly to DHHS instead of the recipient, and DHHS has ten days to remove from that check any amount of GA that was issued to the recipient after the date he or she was found to be disabled and therefore, eligible for SSI. DHHS reimburses the municipality their portion and the remainder of the retroactive check is then immediately sent to the SSI recipient.

NOTE: Due to two 1998 cases, *Coker v. City of Lewiston*, 1998 Me. 93 and *Thompson et al., v. Commissioner, Department of Health and Human Services and City of Lewiston* (CV-94-509, Me. Super. Ct., Ken., August 28, 1998), DHHS policy currently requires that the value (calculated at a rate of at least minimum wage) of any workfare performed by the GA recipient be subtracted or offset from any refund due to the municipality.

Use of Potential Resources

In addition to fulfilling the work requirement, applicants are required to utilize **any resource that will help reduce their need for GA** (§ 4317). Resources include any state or federal assistance program such as TANF, food supplement benefit, or fuel assistance; unemployment compensation benefits; support from legally liable relatives (parents of

children under 25 and spouses), and any other program or source of assistance (*see Appendix 11 for a partial list of other potential resources*).

Written Notice

After a person files an initial application the administrator must state in the written decision what potential resources the applicant is required to attempt to obtain as a condition of receiving future assistance. *The recipient must be given at least **seven days** to secure the resource.*

Eligible applicants cannot be denied assistance while they are waiting to receive the resource. However, if they do not attempt to secure the resource and they don't have a good reason (just cause) for not attempting to obtain the resource, *they **can be disqualified** until they do make a **good faith** effort to utilize the resource.*

It is important to distinguish *potential* resources from *available* resources. A potential resource is something that may or may not be available to the recipient at some point in the foreseeable future, while an available resource is something that is available to reduce or eliminate a person's need at the time of application or in a timely manner to meet the need.

For example, Phil Johnson had an \$800 savings account. He was temporarily laid off from work and he didn't want to deplete his savings, so he applied for GA when he needed fuel and food. Phil had an *available resource*, his bank account. All he had to do was go to the bank and withdraw the necessary funds.

This is different from Ingrid Kimball's case. Her husband left her and their two children three days ago. Ingrid was not working and had no money so she applied for GA. The administrator told Ingrid that she was eligible but she would have to apply for TANF, food supplement benefit, fuel assistance, and attempt to receive support (using DHHS's Child Support Enforcement Unit if necessary) from her husband who had a very well paying job. The administrator gave Ingrid these instructions in writing and told her that if she failed to follow through on these requirements, she would be ineligible until she did so.

In Ingrid's case, even though she was eligible for the other various sources of assistance, they were not available to her at the time she sought GA. She would have to fill out applications for these programs and there would be a waiting period while her applications were processed. In the case of support from her husband, even though he had money available to help Ingrid and her children, if he did not voluntarily give her any support his income was not *actually available* and Ingrid would have to initiate legal action against him.

Ingrid was entitled to a seven-day written notice to attempt to secure these potential resources.

Available Charities

Two Superior Court cases in 1987 and 1988 have clarified the issue regarding the municipality's ability to require clients to use local charities. In *Fjeld v. City of Lewiston*, Androscoggin County #CV-87-4, the Court ruled that it was not permissible under § 4317 for Lewiston to refer the applicant to the Hope Haven Gospel Mission for his shelter needs.

The Court found that the Mission, in its regular operation, attempted to influence the religious beliefs of its clients. The Court further found that the applicant was generally uncomfortable with and unwilling to undergo the religious persuasion. Therefore, the Court found that the *Mission was a resource that **was not** available to the applicant.*

In *Bolduc v. City of Lewiston*, Androscoggin County #CV-87-248, the Court went even further. In *Bolduc* it was decided that because the Legislature had expressly eliminated "charitable resources" from the list of "potential resources" in § 4317, a *municipality **could not** require applicants to utilize charitable resources.*

The Court found that the list of "potential resources" in § 4317 were all resources "to which the applicant is legally entitled by statute, contract, or court order." When *Fjeld* and *Bolduc* are considered together, it is apparent that *municipalities **cannot avoid granting the GA for which the applicants are eligible by referring the applicants to private charities unless the applicants are willing to utilize the charities or the municipality has established a contractual relationship with the charities by paying for the service the charity provides.***

It is highly advisable, therefore, for municipal officials to get together with local charitable organizations in order to develop agreements whereby the municipality can utilize the charity's services in exchange for either core lump sum funding or pre-arranged per-diem or per-unit rates, or both. Obviously, part of those agreements would prohibit the charity from requiring any religious observance or affiliation, or otherwise violating the recipient's constitutional rights.

Rehabilitation Services

Applicants who have physical or mental disabilities can be **required to take advantage of any medical or rehabilitative resources** that are recommended by a physician, psychologist, or other retraining or rehabilitation specialist.

For example, Delores Cote was working as a waitress until she was in a car accident. As a result of the accident she was out of work for three months and received GA during that time. Finally, the doctor told Ms. Cote that she could go to work *provided* that she was not on her feet more than four hours a day and didn't lift heavy objects. He told her explicitly that she could not be a waitress. When she reapplied for assistance, Ms. Cote told the GA administrator what the doctor had said. The administrator informed Ms. Cote that she must start looking for work. Ms. Cote said she wasn't trained to be anything but a waitress. The administrator told her to sign up for vocational rehabilitation so that she could receive education and training to help her find a job. Ms. Cote did not have her high school diploma and was embarrassed at the thought of having to be trained at her age, but she told the administrator that she would sign up for training. When she applied the following week, she had not gone to the vocational rehabilitation office. The administrator disqualified Ms. Cote until she did apply. The following day, Ms. Cote mustered her courage to talk with a worker at the vocational rehabilitation office. Ms. Cote took some aptitude tests that showed that she had an aptitude for working with computers. A new training session would be starting in six weeks and she signed up to be a member of that class. That same day she went to provide the GA administrator proof that she went to the vocational rehabilitation office and that she would be attending the training session and as a result, the administrator completed a new application and granted Ms. Cote assistance.

Forfeiture of Other Program Benefits—Coordination with GA

Maine law states that not only are applicants responsible for *using **any** available or potential resource* that will diminish their need for GA, but they ***cannot*** *receive GA to replace any public benefits they had received but then lost due to fraud or an intentional violation of the program rules.*

For instance, Jolene Brown had been receiving GA plus \$80 a week in VA benefits. Later she was disqualified from receiving his VA benefit because of fraud. Jolene applied for GA, as usual, and informed the administrator that she had lost her VA benefit. The administrator called the Veterans Administration to find out why she had lost the benefit. When she determined that Jolene had committed fraud, the administrator informed her that she would not receive GA to replace the lost VA benefit. She would receive the same amount of GA benefits as she had received in the past but she would have a total of \$80 less a week (her lost VA benefit) to live on. In other words, the *administrator **included** the amount of the lost VA benefit as part of the household income as if she were in fact still receiving them.* In the future, the administrator will continue to consider Jolene's lost benefits as available to her *for as long as she does not receive them.*

It should be noted that there are many reasons why the benefit levels distributed by other programs are reduced. Many if not most of those reductions in benefits are for reasons that are not associated with any fraud or acts of bad faith on the part of the recipient. The way the GA law dealing with forfeiture of income reads (§ 4317, third paragraph), the recipient has forfeited income if the reason for the benefit reduction in the other assistance program was caused by “fraud, misrepresentation or a knowing or intentional violation of program rules, or a refusal to comply with program rules without just cause.” Municipal GA administrators, therefore, should be very careful not to jump to the conclusion that a reduction in TANF benefit, for example, for reason of “overpayment” is necessarily a forfeiture of income. It frequently requires some communication with DHHS or whatever agency is issuing the benefits to determine if the reduction in benefit was caused by client bad faith.

It should also be noted that this sanction applies primarily to fraud or other acts of bad faith committed with regard to other public assistance programs, such as TANF or SSI. Fraud committed in the GA program is discussed immediately below.

Fraud

Any person who commits fraud in an effort to receive GA faces two possible penalties:

- he or she will be *ineligible for assistance for 120 days* and will be required to *reimburse the municipality* for the assistance he/she was not entitled to receive; and
- he or she may *be prosecuted for committing a Class E crime* which carries a penalty of a maximum \$500 fine and a prison sentence not to exceed 1 year.

It is a case of fraud when anyone “**knowingly and willfully**” makes a false statement of a **material fact** for the purpose of causing himself or any other person to be eligible for GA (§ 4315).

“Knowingly & Willfully” Standard

This standard of “knowingly and willfully” is a very difficult standard to meet as evidenced by an April 1997, Maine Supreme Court decision, *Ranco v. City of Bangor*, 1997 Me. 65. In *Ranco*, GA recipients who had been disqualified from eligibility for 120 days for violating the GA statute’s ‘false representation’ provision, appealed the determination and the Bangor operations committee (FHA) upheld the disqualification. The FHA’s determination was vacated upon appeal to the Superior Court by the Rancos and the City of Bangor consequently appealed to the Supreme Court.

The issue in *Ranco* was whether the standard of “knowingly and willfully” was satisfied by the Rancos omitting information on their GA application regarding the existence of a house guest, who was residing in their home. While a house guest of the Rancos’, the house guest himself applied for GA with the assistance of Cindy Ranco, subsequent to the Ranco’s application. The city asserted the argument that the recipient’s specific purpose in failing to disclose the house guest’s presence was to preserve their potential eligibility for benefits afforded to separate one and two person households instead of the lesser amount allowed to a three person household.

The Supreme Court held that there was “no indication that (the house guest) attempted to or was counseled to attempt to become qualified for the higher amount.” The fact that the representations made by applicants during the interviews were made for the purpose of obtaining a larger amount of GA was according to Court, “not supported by the record.”

Material Fact

A material fact is any information that has a *direct bearing on the applicant’s eligibility for GA*. For example, if an applicant didn’t disclose that he was receiving unemployment compensation that would be fraud. However, if an applicant reported that he had been out of work for six months, but it had really been nine months, that misinformation doesn’t necessarily have a direct bearing on his eligibility therefore it would not be considered fraud.

If the GA administrator believes a person has committed fraud, the administrator cannot deny the request for assistance solely because an applicant made a false statement *without first giving the applicant an opportunity to appeal the decision to the Fair Hearing Authority*.

In practice, the administrator usually discovers fraud after assistance has been granted since if a person made a false representation on the application and the administrator discovered it prior to rendering a decision during the 24-hour period, the administrator would deny the request if there was no need, or grant only a portion of the assistance the person was eligible for plus disqualify the applicant due to fraud (first example below).

However, if a person’s request for GA was approved and the administrator later discovered that the recipient had committed fraud, the administrator would be required to notify the recipient that his assistance would be terminated but that the recipient could appeal the decision prior to the termination (second example below). Remember that *even if a household member is disqualified, eligible dependents may receive GA* (third example below).

Example: Michael Martin applied for assistance in Montville. He said he had recently moved from Holden. He told the administrator that he had been unemployed for over a year and his unemployment compensation had expired a month ago. Although he collected food stamps, he received no income. He requested help with rent and utilities. The administrator informed Mike of the various specific sources that would be contacted to verify his application, and told him to return the next day for the decision on his request.

After he left, the administrator called the GA administrator in Holden to find out if Mike had received GA there and to verify the information on the application. The Holden administrator said Mike had left Holden seven months earlier because he said he had been hired to work at the K-Mart in Montville. The administrator contacted K-Mart to determine if Mike was working there. The store manager confirmed that Mike started working there seven months ago. The manager also volunteered that he was a very diligent employee and earned \$8.00 an hour.

When Mike returned the next day for the decision on his request for assistance, the administrator questioned him again about his assertion that he had no income. Mike said he did not, but he was hopeful about finding a job. The administrator then denied Mike's request for assistance because his income exceeded the maximum levels. The administrator also disqualified him for 120 days for fraud because he had knowingly and willfully made false representations. The administrator told Mike he had the right to appeal the decision, and provided Mike with the Town's decision in writing.

Example: Greg Thompson had been receiving GA for nearly a year. He said he had no income because he was disabled and his attempts to receive SSI had failed. However, the administrator was suspicious because she noticed that Greg always seemed to be in restaurants or at social gatherings. Finally the administrator decided to send inquiries to a number of state and federal social service agencies to see if there was anything they could do for Greg. One day the administrator received a call from the Veterans Administration (VA) and learned that Greg had been collecting over \$200 a month from the VA for the past three years.

The administrator notified Greg that she had learned that he was receiving an income; that he would be disqualified from receiving GA for 120 days; that he would have to repay the assistance he was not entitled to receive; and that he had the right to appeal the decision to the Fair Hearing Authority. The administrator could not revoke, or terminate any GA which had been issued to Greg, however, until he had the opportunity for a fair hearing. Again, a

written decision describing the municipality's decision and Greg's right to appeal was provided to the applicant.

Example: Mary Jo Harris and her two children recently moved to Sullivan. She told the GA administrator that she received the food supplement benefit and \$418 in TANF, but she used her entire TANF to pay the security deposit and part of the first month's rent. She requested GA to pay the balance of the rent; she also needed personal supplies. Mary Jo had received GA when she lived in Eastport so she knew she had to present documentation to the administrator. Based on all the information she presented, the administrator granted Mary Jo's request.

Later, the administrator learned that Mary Jo lived with a man and his two children, and that he was working. Because she had not reported this, the administrator wrote to Mary Jo, confronted her with this information, said she would be disqualified from receiving assistance for 120 days, said she would have to repay the town for the amount of assistance she was not entitled to receive, and informed her that she could appeal to the Fair Hearing Authority.

Mary Jo appealed the decision. The FHA denied her appeal because she had committed fraud by not reporting other household members and income. *Even though Mary Jo was disqualified, however, the children **might** be eligible for assistance depending on the household's income and expenses.*

Repayment

Once the Fair Hearing Authority determines that a recipient has committed fraud, the recipient is required to repay the municipality for the amount of assistance he or she was not eligible to receive. Recipients will not necessarily be required to repay the entire amount they received but only the amount they were not entitled to receive.

For instance, Roberta Violette reported \$100 income and \$500 expenses. Roberta's unmet need was \$400, but because her deficit was calculated at only \$208 (overall maximum of \$308 minus \$100 income), \$208 worth of GA was issued to Roberta's landlord. During the course of some follow-up verification, the administrator learned that Roberta actually received a 30-day income of \$250. The administrator disqualified her for fraud and she requested a fair hearing. The Fair Hearing Authority reaffirmed Roberta's 120-day disqualification and ordered her to repay. The Fair Hearing Officer calculated the repayment requirement at \$150 after finding that Roberta received \$208 in GA but was only eligible to receive her deficit of \$58 (\$208 minus \$58 = \$150).

Period of Ineligibility

Once it is determined that a person has committed fraud, the administrator should immediately disqualify the applicant from receiving assistance for 120 days. A common question concerns how to determine when the period of ineligibility commences. *Because **no one** can be denied assistance or have his/her assistance terminated solely for committing fraud, **prior** to being given an opportunity to appeal the disqualification to the Fair Hearing Authority*, the disqualification period begins:

1. the day after the person's right to appeal the disqualification ends (i.e. on the fifth working day after a person has received notice that he or she can appeal the decision); or
2. the day the Fair Hearing Authority renders its decision that the person has committed fraud; or
3. if the period covered by a GA grant has not ended by the time the recipient's right to appeal the decision has expired or by the time the Fair Hearing Authority renders its decision, the 120 day disqualification period commences the last day of the grant period.

Example: Steve had received assistance over the past three months. He told the administrator that he had been laid-off. Later the administrator learned that he had been working regularly since he was laid off, but was receiving his pay under the table. Steve was no longer receiving assistance, nevertheless the administrator notified him that he had to repay the assistance, that he would be ineligible to receive assistance for 120 days, and that he had a right to appeal the decision by September 9 (which was five working days from the date he received the written decision from the administrator).

Steve did not request a fair hearing by September 9; therefore, because he was not receiving assistance currently, his 120-day disqualification period started September 10, the day after his appeal rights expired.

Example: Betsy Bowden received a week's worth of food and one week's rent three weeks ago. The GA administrator in Mexico notified her that because she had committed fraud she would be ineligible for GA for 120 days. The administrator informed her of her rights and Betsy appealed. The Fair Hearing Authority confirmed the finding of fraud and issued its decision April 17. Betsy was ineligible for 120 days starting April 17, since the one-week period her GA grant covered had passed.

Example: On May 1, Margie Wren and her two children received a month's worth of rent, food, fuel and personal supplies. Ten days after granting the request the GA administrator

discovered that Margie had committed fraud. He notified Margie and informed her of her right to appeal. Margie appealed that day. On May 16, the Fair Hearing Authority rendered its decision that Margie had committed fraud. Because Margie had received assistance for the entire month of May; however, her 120-day disqualification period did not start until June 1, the first day not covered by the month's worth of assistance already issued.

Further Appeal

The claimant may appeal any decision made by the Fair Hearing Authority to the Maine Superior Court, pursuant to Rule 80B of the Maine Rules of Civil Procedure. 22 M.R.S.A. § 4315.

Fraud Committed by Non-Applicants

Any person who knowingly and willfully makes a false representation for the **purpose** of causing a person applying for GA to be granted assistance is guilty of a Class E crime. For instance, if the administrator called a relative, co-worker, or landlord to verify the information provided by the applicant in accordance with verification procedures, and that third party lied to cover the applicant's false information, that third party could be prosecuted for fraud along with the applicant.

Unemployment Fraud

22 M.R.S.A. § § 4317 is the statute that governs the use of potential resources other than GA. Consistent with this statute, an individual who is declared ineligible for unemployment compensation benefits because of a finding of fraud by the Maine Department of Labor pursuant to 26 M.R.S.A. § 1051(1) is ineligible to receive General Assistance to replace the lost unemployment benefits. The duration of the forfeiture of unemployment benefits is established by the Department of Labor and it is this period of time that the GA administrator should use when calculating benefits. To be clear, unemployment benefits will be considered as available to a client in calculating GA benefits when the client has lost unemployment benefits due to fraud.

CHAPTER 4 – Dependents

The GA law imposes eligibility conditions on recipients that they must fulfill if they expect to receive further assistance. However, the law also provides that *dependents who can't care for themselves will be eligible even if a household member is disqualified*. Dependents are members of the household who are not capable of working such as:

- dependent minor children;
- ill, elderly or disabled person;
- a person whose presence is required in order to provide care for a child under six years old, or for an ill or disabled household member. 22 M.R.S.A. § 4309(3).

There is a distinction between “failure to comply with the law” and being “ineligible” for assistance because the household has adequate income. If the responsible adults of the household violate the law and are found “*ineligible*” for not fulfilling the work requirement, not attempting to obtain potential resources, committing fraud, or because they are fugitives from justice, their dependents are eligible if there is insufficient household income to meet the dependents’ needs, in accordance with the ordinance maximums. This section does not apply to households that have sufficient income and are ineligible because there is no need. The dependents would not be eligible to receive assistance except in unavoidable emergency situations.

Example: John and Liz York and their three children ages three, five and seven have been receiving assistance off and on during the last several months. Liz has not worked because she had to care for her children; John worked pumping gas at a service station. John decided to quit work because he was frustrated over his “dead-end” job. When he applied for assistance the administrator disqualified John for 120 days because he quit his job without “just cause.” The administrator granted assistance to Liz and the three children for one week because they were dependents. The amount of assistance was based on a family of five, less the pro-rata share of the disqualified person (John). However, the administrator said that since John wasn’t working, he could take care of the children and Liz would have to fulfill the work requirement, including workfare. If John found work he would regain his eligibility.

Although Liz agreed to do workfare, she never showed up to work. The administrator disqualified Liz, in addition to John, because she didn’t have just cause for not doing workfare. Even though Liz and John were both disqualified the administrator had to assist the three young children.

In the case of Liz and John the household continued to receive GA even though it was a reduced amount (for a household five, reduced by the pro-rata share of the two disqualified individuals (John and Liz). Although the assistance was intended solely for the children, obviously their parents could benefit from it. The intent behind this section of the law, however, is to penalize the parents without making the children suffer for their parents' actions by being deprived of their assistance.

Example: Sandra Mitchell takes care of her 73-year-old mother who has Alzheimer's disease. Sandra is healthy and could work but she has to stay home to care for her mother since Sandra can't afford to pay someone else to care for her. Sandra and her mother are eligible, even though Sandra is able to work, because she is the only person available to care for her mother.

Example: George Lowe and his 17-year-old son, Michael, live in Lincoln. The Lowes had received assistance for about eight months. When classes ended in June for summer vacation, the administrator told Michael that he would have to get a summer job or do workfare. Michael refused saying he was on vacation from school and he shouldn't have to work. The administrator disqualified Michael because he was able to work but refused to work without just cause. His father continued to be eligible.

When determining eligibility of the household members who are not disqualified, the administrator should keep the overall maximum and category maximum at the same level but reduce that amount by the share of the disqualified person. Take, for example, a household of four where one member is disqualified for 120 days for committing fraud. They have no income and are requesting help with their \$500 a month rent. The overall maximum for a household of four is \$800. Only three quarters of the household is eligible to receive assistance so therefore the overall maximum would be $\frac{3}{4}$ of \$800 = \$600. They would qualify for $\frac{3}{4}$ of the rental expense, their rental eligibility would be $\frac{3}{4}$ of \$500 = \$375.00.

Liability of Relatives

Maine law had long required that relatives be liable for the support of members of their family. Parents and grandparents who were *financially able* were considered a resource and were expected to support their children or grandchildren *regardless of their ages*. In fact, up until 1984, the obligation of relatives to support each other was a two-way street; children and grandchildren were expected to support their elders when necessary. The Legislature eliminated the responsibility of children and grandchildren to care for their elders in 1984—except with respect to funeral expenses (*P.L. 1983, ch. 701, 22 M.R.S.A. § § 4313, 4319*). And in 1989, the Legislature limited the liability of support to only the parents of children under the age of 21—again, except in the area of burial expenses (*P.L. 1989, ch. 370*).

The most recent development in the evolution of a parent's financial liability for the support of his or her children, as that responsibility coordinates with the GA program, was enacted on June 30, 1993. In a partial return to pre-1989 parental liability for support, *GA law now establishes a parental liability for support for **any** applicant applying independently who is less than 25 years of age. Furthermore, a spouse's liability for support is also clearly established.*

Other relatives—brothers, sisters, aunts, uncles, cousins, parents of applicants over 25 years of age, etc.—are not legally liable for each other's support but should be encouraged to help their relatives to the best of their ability.

There are four sections in the state law which pertain—directly or indirectly—to the liability of relatives:

- § 4309(4) (Eligibility of minors who are parents)
- § 4319 (Liability of relatives)
- § 4317 (Use of potential resources)
- § 4313(2) (Burial and cremation responsibilities of legally liable relatives)

§ 4309(4)

In 1991, the Legislature inserted into both AFDC (now TANF) law and GA law a provision which was intended to address a design of AFDC law which, unintentionally, was providing an incentive for young AFDC mothers or mothers-to-be to leave the homes of their parents in order to receive AFDC benefits. In GA law, that provision is now found at § 4309(4). It provides that *as a general rule minors who don't live with parents or guardians are **completely ineligible** to receive GA if they are:*

1. 17 years of age or younger;
2. have never been married; and
3. have dependent children, or are pregnant.

As is often the case in GA law, this general rule has a number of exceptions. Those exceptions are when a minor is otherwise eligible and:

- when such a minor is living in a foster home, maternity home or other “adult-supervised supportive living arrangement”;

- when the minor’s parents are not living or their whereabouts are unknown;
- when the minor’s parents are unwilling to permit the minor to live in their home;
- when the minor has lived independently of the parents for at least one year prior to the birth of any dependent child;
- when DHHS determines that the minor or the minor’s children would be jeopardized by living with the minor’s parents; or
- when DHHS determines, in accordance with DHHS regulation, that the general ineligibility for GA should be waived.

Furthermore, the general rule of ineligibility must be waived whenever the minor’s parents verify that their child had been living independently from them for a year prior to the birth of the minor’s dependent child.

Finally, DHHS has the authority to require the town to provide the minor with GA after making a finding that the minor or her child would be jeopardized if found ineligible. The law expressly gives DHHS the responsibility of making the determination of jeopardy; therefore, the municipal administrator should seek DHHS advice or inform the minor applicant that she may seek DHHS intervention whenever the issue of jeopardy arises.

§ 4319

This provision of law now requires that parents provide support to their children **under the age of 25**, and that **spouses** support each other “in proportion to their respective ability.” As an aside, parents remain responsible for their “emancipated” children under GA standards. In certain circumstances, the parental liability to support a minor or young adult applicant can lead to a denial of that applicant’s GA request on the grounds that the applicant has “no need.”

Generally, however, this section of law merely allows a municipality to recover the cost of assisting a person by suing the parent(s) or spouse in any court of competent jurisdiction, such as Small Claims Court, if the parents or spouse refuse to help their relatives. (Keep in mind that in order for the suit to be successful, the liable relatives must be financially able to contribute and either reside in or own property in Maine.)

If such a suit is brought, the court can summon the relatives and order them to repay the municipality which has expended money for their relatives’ support. If the court determines

that the relatives who are sued had sufficient financial ability to support their relatives, the court could require them to pay a “reasonable sum” to reimburse the town. The suit can recover only those expenditures made during the previous 12 months. Therefore, if Albion had granted assistance to Mr. and Mrs. Decker’s daughter during the past 18 months, the most the municipality could recover would be expenses made during the prior 12 months, not the entire 18-month period.

The Enforcement of Parental Liability

An administrator cannot assume that parents are providing appropriate support to their children merely because they are required to do so by law. First of all, parents are only obligated to support their children under GA law “in proportion to their respective ability.” Therefore, if the parents are impoverished, their support for independent minor or young adult children cannot be required. Furthermore, it may be the case that the parents are financially able to provide the necessary support, but for one reason or another they are not providing it.

§ 4319 does not allow administrators to flatly deny applications made by minors or young adults or otherwise reduce the levels of assistance for which such an applicant may be eligible on the grounds that the parents are legally required to support the minor. As discussed above, the process envisioned by § 4319 is primarily a process of recovery.

With this in mind, when a minor or young adult applies for GA, the administrator should make at least two determinations. First, are the applicant’s parents willing and able to provide their children with his/her basic necessities? If this is the case, and the administrator has no reason to suspect that the parental home is a dangerous or unhealthy environment for the child, then the minor’s application could be denied on the basis of “no need.”

However, if either the minor or the minor’s parents are able to contribute sufficient evidence to suggest that the parental home is not available to the minor because of space problems, lack of resources, because the parents threw the child out of the house, or because of suspected emotional or physical child abuse, the administrator should process the minor’s application in essentially the same manner as an adult’s application.

At this point, the second determination should be made, which is whether the minor’s parents *are financially capable* (i.e., are they are employed, do they have adequate discretionary income, do they own significant assets, are they on public assistance, etc.). If a determination is made that the parents are financially capable of providing support, the municipality should notify the parents of their financial responsibility to provide for their

child under the GA program. If necessary, parents should be informed that the municipality will seek to collect any assistance granted to their child through civil action (e.g., small claims court) if the parent does not comply.

Obviously, the financial issue of parental liability is not the only issue regarding GA and minors which concerns administrators. Many GA administrators are reluctant to grant assistance to minors that enable the minors to live in potentially unstable or unhealthy circumstances. In 1989, the Maine Welfare Directors' Association and Pine Tree Legal Assistance coordinated their efforts in a piece of legislation which would have provided some fundamental case management to minors receiving GA through the Department of Health and Human Services. That legislative initiative was killed because of the price tag attached.

Minors, GA & Municipal Liability

Another major concern shared by administrators is the perception that the municipality or the administrators personally could be held liable in the event their granting of assistance somehow led to or contributed to the minor's injury or death. Actually, this concern is unfounded.

The Maine Tort Claims Act (14 M.R.S.A. § 8101 et seq.) provides ample protection from such liability. For example, 14 M.R.S.A. § 8111 holds in part that "[t]he absolute immunity [from personal civil liability]...shall be available to all governmental employees, including police officers and governmental employees involved in child welfare cases, who are required to exercise judgment or discretion in performing their official duties."

As a supplement to this provision of immunity in Title 14, in 1991 the Legislature amended § 4318 in Title 22 to read "a municipality that provides general assistance to a minor is absolutely immune from suit on any Tort Claims seeking recovery or damages by or on behalf of the minor recipient in connection with the provision of general assistance."

Rental Payments to Relatives

The Legislature established in 1989 that a municipality has no legal obligation under GA law to provide a rental payment to an applicant's parents (§ 4319(2)). This authority to deny a request for a rental payment to a parent was expanded in 1991 so that an *administrator may now choose not to make a rental payment to the applicant's parents, grandparents, child, grandchild, sibling, parent's sibling or any of those relatives' children.*

Under this section of GA law, the administrator may choose to deny the request for rental assistance to a relative-landlord regardless of the age of the GA applicant and regardless of whether the relative-landlord lives in the same home as the applicant or lives elsewhere. As is usually the case with GA law, there is an exception to the general rule authorizing the denial of rental assistance paid to relatives.

The exception is if the rental relationship between the applicant and the applicant's relative was **three months old or older and the relatives can demonstrate eligibility** for GA if the applicant's rent were not paid to them. It is only when **both** of these two standards are met that the administrator would have to consider paying the rent to the relatives in accordance with standard eligibility criteria.

§ 4317

While § 4319 applies primarily to liable relatives who refuse to support their dependents, § 4317, the section of law making applicants responsible for securing "potential resources," pertains to parents or spouses who are both able and willing to help their relatives. Section 4317 requires applicants to *utilize **any resource** which would reduce or eliminate their need for GA.*

Liable relatives are considered "potential resources" for the purpose of this section, and the GA applicant would be required in writing to make a good faith effort to secure the liable relative's direct assistance. At the point in time the liable relative expressed a willingness to provide direct support, that relative would become an "available resource," and the applicant's need for GA would evaporate. *If the relatives are not both able and willing to provide direct assistance, the applicant **cannot** be penalized for failing to make use of the resource.*

Example: Nineteen-year-old Rebecca Golden was angry at her parents because they complained about the way she smoked and stayed out at night. Although she had been looking for a job for weeks, Rebecca hadn't found one. However, she couldn't stand living with her parents any longer, so Rebecca went to the town office to apply for GA to help her move. The administrator denied her request because Rebecca's parents said they were willing to have her live at home, and Rebecca had no need for shelter.

Example: Twenty year old Gary Beaulieu had been employed at a paper mill until two months ago when he was laid-off. He applied for GA for his first time to get help with his rent and light bill. The administrator asked why he couldn't live with his parents, who lived in town, until he got another job. Gary explained that his parents could barely make ends

meet now for themselves and four children at home. In fact, Gary said, he had been giving his parents some money each week until he was laid-off.

After thinking about it, the administrator realized that Gary's family had received GA from time-to-time. They lived in a mobile home barely large enough to hold them. The administrator granted Gary's request because even though his family would like to help they had neither the space nor the resources.

Burials

As discussed above, in 1984 the Legislature removed all liability of children and grandchildren for the support of their parents and grandparents, in 1989 the liability of parents was limited to the parents of children under 21 years of age, and in 1993 parental liability for support was extended to allow for the recovery of benefits issued to an applicant under the age of 25 years.

None of these changes in the law affected the liability of grandparents, parents, siblings, children and grandchildren to pay for the burial costs of each other, whenever these relatives are financially able. In 2007, however, the Legislature removed "siblings" from the list of surviving liable relatives (§ 4313(2)). When a person dies without having made burial provisions and without resources or sufficient estate to cover basic burial or cremation costs, any surviving liable relatives (*parents, grandparents, children or grandchildren*) of *sufficient ability* would be responsible for the burial costs (§ 4313). The way this type of financial responsibility to bury relatives is generally enforced by the municipality is to simply deny any request for burial assistance to the extent legally liable relatives have been identified who live or own property in Maine and who appear to have a financial capacity to pay for the burial/cremation, either in lump sum or installment payments. (*For more information on "burials," see Chapter 7.*)

CHAPTER 5 – Verification

Verification, or certifying that applicants are eligible for assistance, is one of the administrator's most important duties. Applicants have the burden of proving that they are eligible for GA. The applicants must show that they need GA by providing written documentation such as wage stubs, receipts, and bills. The GA administrator is responsible for verifying that information (§ 4309). It is not the administrator's job to do the groundwork to discover if applicants are eligible.

The administrator does, however, have the obligation to check the accuracy of the applicants' statements and documents in order to make sure the applicants are in fact eligible. The administrator may gather or *verify information from other sources provided the administrator, **prior** to contacting third parties, informs the applicant (in writing is the preferred method, see Appendix 17, page 4 of the MMA GA Application) of the sources which will be contracted.* If the applicant refuses to allow the administrator to make a third party contact, the applicant's request for GA may be denied.

Generally speaking, the administrator should require applicants to bring certain documents each time they apply: bills or receipts for rent, utilities, fuel, telephone service, medical expenses, clothing and evidence of income whether it is earned income or a public benefit such as TANF or SSI. A requirement that the applicant bring such documentation should be a part of any use-of-income policy and notice, if the municipality employs such a policy (*see "Use-of-Income Guidelines," in Chapter 2*).

If the application is not an initial application, the administrator should also expect documentation establishing exactly how the household's previous 30-day income was spent (*see "Availability of Misspent Income," in Chapter 2*), as well as proof that the applicant has fulfilled the work requirements and attempted to secure all potential resources.

Requiring applicants to fully document their eligibility can be less strictly required in some emergency situations, but the municipal authority to limit emergency assistance when the applicant could have averted the emergency situation clearly authorizes the administrator to request and expect to receive sufficient documentation to satisfy the applicant's burden of proof that the emergency was not self-created (*see "Limitations on Emergency GA" in Chapter 2*). Even when verifying documentation is less strictly required in emergency circumstances (such as a furnace breakdown in the middle of the night), all recipients of such emergency GA would be expected to bring all necessary documentation as soon as possible, or at least by the next time they apply. 22 M.R.S.A. § 4310.

If an applicant's information and documentation is incomplete, the administrator should tell the applicant, in writing, what information is needed for the administrator to make a decision. If the applicant fails to provide the necessary information within 24-hours and the administrator can't determine eligibility, the administrator should deny the application pending receipt of the necessary information.

*Remember, the eligibility period commences upon the administrator's **determination of eligibility** for purposes of the 30-day calculation period.*

Example: Mr. Jones (a repeat applicant) applies for GA on the 1st of the month and is directed (in writing—the preferred method) to bring back pay stubs and expenditure receipts within 24-hours so that his eligibility can be determined. Mr. Jones does not bring the documentation as directed. Thus, the GA administrator *by law must issue a written decision* (in this case indicating ineligibility due to failure to bring in necessary documentation). Mr. Jones returns on the 3rd of the month, submitting all the necessary documentation previously requested of him. The GA administrator must initiate a new application, dated the 3rd, and the period of eligibility becomes 30 days from the 3rd (not the 1st). On the 4th (24-hours later) the GA administrator provides Mr. Jones with a new written decision.

Because the burden of proving eligibility rests upon the applicant, the administrator can *require the applicant to present the necessary information*, or the administrator can gather the remaining information personally. However, if an applicant doesn't provide the information or refuses to allow the administrator to gather the needed facts to determine eligibility, the applicant can be *denied due to insufficient information*. 22 M.R.S.A. § 4309.

People applying for the first time are not required to present as much documentation as recipients who have received assistance previously. Because need is the primary eligibility factor at the time of an initial application, people are not required to prove that they have looked for work, accepted work, or have met other eligibility conditions. They do, however, have to show that they are in need and must present reasonable documentation of their income and expenses.

Employment

Applicants *must* give the administrator proof of their wages. If “first time” applicants do not provide the necessary information and it is impossible for the administrator to determine their eligibility, the administrator may deny assistance due to incomplete information and documentation of eligibility *if the request is not an emergency*. If it is an emergency, the administrator should grant sufficient assistance to meet the immediate need. However, in the

written decision the administrator should inform the applicant that they must provide the required documentation in order to receive further assistance. The decision should also state that if an applicant fails to provide the requested documentation, the administrator may contact the employer to verify the employment information if the applicant hasn't provided the information within seven days.

Employers are *required by state law* to release employment information upon *written* request by a GA administrator. If employers refuse to give the information, they must give a written explanation stating the reason for the refusal within three days of the request for information. If employers do not have a good reason for refusing to comply with the request, they can be fined not less than \$25 nor more than \$100. In addition, giving the administrator false information is a Class E crime. 22 M.R.S.A. § § 4314, 4315.

Financial Institutions

Applicants are required to inform the administrator if they have savings or checking accounts. The administrator may verify this information by making a *written* request to the bank, credit union or other financial institution. The bank or financial institution will usually require a release signed by the applicant to provide the administrator with this information. If a bank refuses to release this requested information it must give a written decision explaining why it refused. If the banking institution does not have good reason for refusing to release the information, it can be fined not less than \$25 nor more than \$100. 22 M.R.S.A. § 4314.

State Agencies

The administrator can contact the Department of Health and Human Services and any other state agency which has any information pertaining to an applicant's eligibility. Unlike inquiries to employers and financial institutions, requests for information from state agencies do not necessarily have to be in writing. Administrators can, for instance, call the Department of Health and Human Services to find out about an applicant's TANF or Food Stamp grant or call the Department of Labor to learn about an applicant's unemployment compensation benefits. 22 M.R.S.A. § 4314.

Emergencies & Telephone Applications

In an emergency situation, *requiring immediate assistance*, the GA administrator may issue "sufficient benefits to provide the basic necessities needed immediately..." as long as the following conditions (found in § 4310) are met:

- the administrator has determined, on the basis of the interview, that the applicant will probably be eligible for GA after full verification;
- when possible, the applicant submits adequate documentation to verify that he or she needs immediate assistance;
- when adequate documentation is not available at the time of application, the administrator may contact at least one other person to confirm the applicant's statement;
- in no case may the authorization of benefits provided under this section exceed 30 days; and
- in no case may there be further authorization of benefits until a full verification of eligibility has taken place.

In some cases, emergency applications may be made over the telephone. The administrator should accept telephone applications when the applicant has an immediate need and neither he/she nor any person can apply in person due to illness, disability, lack of childcare, no transportation or other good cause. If an application is taken over the phone, the administrator still has the obligation to verify the information either by making a visit to the applicant's home with his/her consent or having the applicant send or bring in the necessary information another day. 22 M.R.S.A. § 4304(3).

CHAPTER 6 – Confidentiality

It is important to remember that although the administrator must verify the information the applicant gives, the administrator must keep information relating to the applicant confidential. No information pertaining to applicants, including their names, information on their application forms, records of the amount of assistance granted or other communications can be released to the *general public*. When attempting to gather information from other sources, the administrator should not give out any more information than is necessary to obtain the needed information, and should inform the person that the information is confidential. If someone calls the administrator to gather information, the same rules apply. If another GA administrator or a state Human Services worker requests information about a recipient, the administrator can supply the needed information provided the information is kept confidential by the government official requesting the information and that official needs the information for legitimate reasons.

GA records cannot be released to the general public unless a recipient has given consent in writing. Determining who constitutes a member of the general public, however, can be problematic for the administrator. Basically, the general public includes *anyone who is not a government official acting in his or her official capacity*. In other words if a municipal official needs information about a GA recipient in order to fulfill her official duty, the official would not be considered a member of the general public.

Example: Ms. Rogers, a selectperson, asks the GA administrator to show her the GA records for the last fiscal year. Ms. Rogers is not involved in administering GA but has been assigned to review the administration of GA in the municipality. She is given the records because she is entitled to see how municipal monies are spent, but is reminded not to discuss the records because they are confidential.

Example: Captain Snell, of the Brewer Police department, wants to look at the GA records to see if she recognizes any names. The GA administrator refuses to give her access to the records because Captain Snell's purpose does not directly relate to the performance of her duty. However, if Captain Snell had told the administrator that the police department was looking for Sally Jacques on suspicion of armed robbery and wanted her last known address, the administrator could have provided the recipient's address.

Example: Ms. Sample has requested a fair hearing. An individual claiming to be an advocate representing Ms. Sample called the GA administrator to get some information about the case. The GA administrator refused to disclose any information to the alleged

advocate unless and until Ms. Sample gave the administrator specific permission to release her records to the advocate.

Municipalities should not involve the police department in administering the GA program for routine matters. The administrator should not give police the assignment of verifying information on an application or conducting home visits. For instance, the police should not routinely interview neighbors or landlords to find out who is in the household, and the police should not set up surveillance to see who enters the applicant's home. Also the police shouldn't accompany administrators while they are doing home visits unless the applicant has a history of violent or irrational behavior. None of these tasks are an official duty of the police and they would be considered members of the general public in these instances. The police may be called in, however, when there is evidence of fraud and the administrator needs the police to investigate. Furthermore, law enforcement personnel should be immediately contacted when the administrator is in need of protection or an unruly applicant needs to be removed from the GA office or engages in or threatens criminal behavior.

Please refer to the following Legal Service's Information Packet on "GA Confidentiality and Disclosure of Information" for further information.

General Assistance Confidentiality and Disclosure of Information

Links to the following documents are provided as examples for informational purposes only. They have not been reviewed by MMA Legal Services. Do not use any sample unless it has been reviewed by your legal counsel and tailored to meet the needs of your municipality.

This packet includes the following attachments:

- Title 22 M.R.S.A. § 4306
- Title 22 M.R.S.A. § 4314
- *Sample* Information Confidentiality Policy/Agreement
- *Sample* General Information Disclosure Form
- *Sample* Medical Information Disclosure Form

Important issues and considerations include:

- Confidentiality of General Assistance Information

Although Maine’s “Right to Know” Law (Freedom of Access Act, 1 M.R.S.A. § § 401-412) provides for public access to public records, certain important exceptions exist to this broad rule (*see Information Packet on “Right to Know”*). Among others, “[r]ecords that have been designated confidential by statute” are accepted from public disclosure (1 M.R.S.A. § 402(3)(A)). One example of this is found in the municipal general assistance (GA) statute—the confidentiality provision at 22 M.R.S.A. § 4306.

Section 4306 provides in part that, “[r]ecords, papers, files and communications relating to an applicant or recipient made or received by persons charged with the responsibility of administering” the GA program are “confidential.” Furthermore, this information “may not be disclosed to the general public, unless expressly permitted by [the applicant or recipient].”

It is important to note that Section 4306 concerns disclosures made to the “general public” only and not to government officials acting in an official capacity. Therefore, discussions with the Department of Health & Human Services (DHHS), other State departments, or other GA administrators for the purpose of determining eligibility would not be prohibited under the statute. In addition, because the general public does not include a government official acting in his or her official capacity, in an instance where a municipal official (i.e., selectperson appointed to review GA administration in the municipality) required information about the town’s GA program or requested information regarding a GA case which appeared questionable, such an official would not be considered a member of the general public. On the other hand, if a selectperson was requesting information unnecessarily or outside the scope of his or her official duty or perhaps was unnecessarily intrusive into the facts of a case, the GA administrator should remind the selectperson of the confidentiality of such GA information.

Although GA administrators are responsible for the collection and verification of information necessary to determine a GA applicant’s eligibility, they are also responsible for maintaining the confidentiality of this information. Moreover, under 22 M.R.S.A. § 4314 (4), State departments, financial institutions and employers obtaining “...information under this section [are] subject to the same rules of confidentiality” as the municipality.

Consequently, when a GA administrator communicates with State departments, financial institutions and employers regarding confidential information obtained during the course of the general assistance application process, the administrator should remind these parties that the information discussed is “confidential.” These discussions should be documented, and

the fact that a direction of confidentiality was given should be incorporated into the documentation.

Municipalities should require court ordered subpoenas for the release of GA information if it is not clear that the release is permitted under the statute.

- GA Information Confidentiality Policy/Agreement

GA administrators are required to keep client information confidential. As a result, they should periodically remind their employees and other municipal departments that may have knowledge of a GA application (e.g., finance department) of the duty to maintain GA information confidentially. Municipalities may wish to incorporate a version of the attached “GA Information Confidentiality Policy/Agreement” into personnel manuals and have employees sign the agreement upon being assigned GA duties. While serving as a training tool and reminder for employees regarding their responsibilities, this policy/agreement also serves as evidence of a municipality’s “good faith” effort to maintain the confidentiality of GA records and information.

- Disclosing GA Information

If a GA applicant or recipient wishes to have information in their GA file disclosed to a third party such as an attorney or other social service provider, Section 4306 requires that the municipality obtain express permission. Although “express” permission may be interpreted as “oral” permission, municipalities should obtain this permission in writing (*see General Information Disclosure Form*). *Janek v. Ives*, No. CV-89-116 (Me. Super. Ct., Aro. Cty, Feb. 14, 1990), specifically confirmed the interpretation that “express” permission may be interpreted as requiring a writing by a municipality. However, prior to instituting a requirement for “written” releases, municipalities should incorporate this requirement into their GA ordinance.

- Medical Information Disclosures

Although most GA client information may be disclosed upon receiving a client’s general consent, municipalities are strongly encouraged to utilize specific “medical” release forms when releasing information of a medical nature.

- HIV Information Disclosures

In addition to utilizing specific medical information disclosures, municipalities should consider adopting a policy/practice that further requires a client to provide an additional “HIV” release for HIV status information contained in a client’s file.

Generally speaking, due to this information’s highly sensitive nature, municipalities should avoid requiring documents which substantiate an HIV diagnosis. In the event a GA applicant/recipient has HIV, the HIV status can be described as a “life threatening” illness. Pertinent information concerning the specifics of the illness can, as necessary, be confirmed over the course of a telephone conversation. For purposes of GA, whether the person has HIV or cancer for example is usually not important to the GA eligibility analysis. The GA issue(s) behind such “life threatening” illnesses usually consist of requests for assistance in order to purchase expensive medications or the issue of a GA applicant not being able to meet the “work requirement” due to the illness. As a result, for the purposes of GA, describing the client as being inflicted with a life threatening illness is generally sufficient.

The relevant provision of law (5 M.R.S.A. § § 19203) requires that a person who is the subject of an HIV test makes an election in writing whether to authorize the release of that portion of the medical record containing the HIV infection status information when that person’s medical record has been requested. It is important to note that Section 19203 appears to apply to health care providers and medical records, with no direct mention of municipal records. However, it is the opinion of MMA Legal Services staff that because of the sensitivity of this information, if a municipality is requiring the release of HIV related information (which is arguably not the best thing to do), it should require a specific HIV information release in addition to a general medical information release as an added precaution.

Municipalities requiring the additional HIV release must do so with the understanding that such a policy of “requiring” the additional release will provide additional protection for the municipality *only if the policy is stringently enforced*. Should a municipality adopt such a policy and then disregard it, the municipality’s risk of liability following illegal or unauthorized release of information would be heightened. In addition, if a municipality obtains documentation which verifies a client’s HIV status, then the municipality becomes a custodian of this information and must guard it accordingly.

Date of last revision: 08/13

This packet is designed to provide general information and is not intended as a substitute for legal advice for specific situations. The statutes and other information herein are only current as of the date of publication.

CHAPTER 7 – Basic Necessities (Maximum Levels of Assistance)

Maine law defines “basic necessities” as food, clothing, shelter, fuel, electricity, non-elective medical services as recommended by a physician, non-prescription drugs, telephone services where it is necessary for medical reasons, and any other commodity or service determined essential by the municipality. Municipalities must budget in all of the items defined as basic necessities when determining a person’s unmet need. The law also gives municipalities the option of including other items that they consider essential depending on the situation, such as sewer bills, personal supplies, transportation, furniture, and housing repairs.

Municipalities may establish *maximum levels of assistance* for each category of basic necessity to determine if a person is eligible and, if so, how much assistance to grant. Those maximum levels for each category of basic need should be distinguished from the overall maximum level of assistance, which represents the largest GA 30-day grant that can be issued for all the basic necessities put together. Unlike the overall maximums of assistance, which are somewhat arbitrary, the maximum levels established by ordinance for each basic necessity must be reasonable and adequate standards sufficient to maintain health and decency. 22 M.R.S.A. § 4305(3-A).

The municipal officers are responsible for establishing the maximum levels of assistance as part of the GA ordinance. (As a service to municipalities, MMA Legal Services Department generates model figures yearly in the form of Appendices A-C which are sent out in September to all member municipalities). Prior to 1985, the state law contained no reference to maximum levels of assistance. Maximum levels of assistance were a concept that developed informally through practice and case law. *Glidden v. Fairfield*, (1979) Som. County Superior Ct., #CV800-431; *Verrill v. Augusta*, (1982), Kenn. County Superior Ct. #CV 82-262. Because certain advocates for low-income people have persistently challenged municipalities’ authority to set maximum levels, the state law was amended to clearly grant this authority.

DHHS Rules Regarding Maximum Levels

In 1986, the Department of Health and Human Services promulgated a rule which required municipalities, under a “rebuttable presumption,” to adopt as their food maximums the U.S.D.A. Thrifty Food Plan figures. The “presumption” was that if a municipality’s figures reflected the Thrifty Food Plan figures, the Department would presume those maximums to be adequate to maintain health and decency.

The “rebuttable” aspect of the rule was that if the municipality could effectively demonstrate that lower standards were adequate to support the nutritional requirements of a household, then the Department would accept those lower figures.

The authority of the Department to promulgate such a standard was challenged, and Maine’s Supreme Court ruled that the Department was within its authority to impose such a requirement. *City of Westbrook v. Commissioner of the Department of Health and Human Services*, 540 A.2d 1118 (Me. 1988). Since the *Westbrook* case, the Department has promulgated a similar “rebuttable presumption” rule regarding housing maximums, this time requiring that municipal housing maximums conform to the U.S. Department of Housing and Urban Development (HUD) Fair Market Rent statistics.

The MMA model GA ordinance has been in conformance with those statistics since 1987. If the available housing within a municipality or within the region around a municipality costs remarkably less than the HUD figures, as reflected in the MMA model ordinance, that municipality might want to do its own Fair Market Rent survey and establish its own maximums. The Department’s guidelines for doing a local rent survey simply require that the municipality conduct a survey of local landlords, and the survey can also make use of classified advertisements in the newspaper. The DHHS rules also provide that the survey may not be limited to only those landlords who provide housing to General Assistance clients because such a survey may produce distorted rent figures.

Maximums & the GA Budget

The maximum levels of assistance established by ordinance should be reviewed regularly by the administrator to ensure they are adequate for the region, and adjusted when necessary by ordinance amendment. When determining if applicants are eligible by applying the unmet need test, the administrator should budget the applicant’s actual 30-day cost for the basic necessity or the ordinance maximum, *whichever is less* (see “*The Unmet Need Test*,” in *Chapter 2*).

For example, if the ordinance allows a maximum rental amount of \$375 for two people but the applicants only pay \$355 for rent, the administrator would budget the lower amount (\$355). The amount that is budgeted in, by the administrator, for a particular basic necessity is the allowed need for that necessity. If, as a result of the application process, it is determined that the applicant is eligible for GA, assistance can be granted up to the “allowed need” for any basic necessity.

In some circumstances the administrator may feel it necessary to consolidate the applicant's unmet need and apply it all toward a single basic necessity. In other words, the administrator can exceed the maximum amount allowed for a basic necessity, provided the administrator does not exceed the client's total eligibility.

For example, Joshua Holbrook has exhausted his income on basic needs, but he has no money left over to pay the light bill. Joshua applies for assistance, and the administrator determines that Joshua is eligible for \$100 worth of assistance over the next 30 days. The administrator could elect to issue from Joshua's \$100 overall eligibility only \$60 for the light bill because \$60 represents the ordinance maximum for that basic need, and the applicant is in no emergency situation which could dictate exceeding that amount. If the administrator took that course of action, Joshua would remain eligible for the remaining \$40 of his deficit for the other basic necessities, provided that within the next 30 days there was an actual need for them. On the other hand, the administrator could elect to issue the entire amount of Joshua's eligibility to the electric company. In the absence of an emergency need for utility assistance, the administrator could not be forced to consolidate Joshua's unmet need in this manner, but in some cases an administrator may feel such a decision would make more sense.

MMA's model GA ordinance contains some standards governing the practice of consolidating an applicant's unmet need/deficit.

The following is a discussion of the various basic necessities.

Food

As discussed above, the ordinance maximums for food are now governed by DHHS regulation that essentially requires municipalities to adopt the *U.S.D.A. Thrifty Food Plan*. When budgeting a person's need for food, the administrator must automatically budget the maximum amount allowed in the ordinance for food. This is recommended for three specific reasons. First, everyone must have food to survive. Second, most GA recipients receive food stamps but this benefit *cannot* be *included* as *income*. By including the full maximum allowed for food, the municipality is protected from being accused of including the food supplement benefit as income. Many administrators object to being required to disregard the food supplement benefit, but this is a federal law. The purpose of the federal Food Stamps Act is to provide eligible households with an opportunity to obtain a more nutritionally adequate diet. *GA and other welfare benefits cannot be reduced due to the household's receipt of the food supplement benefit.* 7 U.S.C. § 2017(b). Finally, DHHS regulation now

requires that administrators budget all applicants at full food allowance levels (*DHHS General Assistance Policy Manual, Section IV*).

Municipalities are permitted to adopt a list of approved food items which people may purchase with their GA vouchers and to restrict the purchase of certain items. The recipient should be given a copy of approved or unacceptable items. In order for this to be effective, the municipality needs the cooperation of the supermarket. Also, municipal food and personal care vouchers, at the present time, are *not* exempt from state sales tax.

Housing

When budgeting for housing, the administrator should use the actual expense for rent or mortgage up to the maximum amount allowed. It is the applicants' responsibility to locate and obtain housing that is *within their ability to pay*.

However, some people can't afford any housing due to the lack or insufficiency of income. In these cases the administrator should inform applicants about the maximum amount allowed for housing and direct them to attempt to find housing within that amount. Notwithstanding the regulatory requirement that the housing minimum reflect the HUD standards, the maximum amounts must also realistically reflect the expenses in the area and if they do not they should be amended.

Municipalities generally provide *current* rental payments rather than grant assistance for "back bills." The administrator should tell this to applicants the first time they apply, and also include it in the written decision, so that the applicants are clearly aware of this practice.

Furthermore, GA rental assistance should be provided so as to secure *prospective* housing. In other words, rent vouchers should not be provided to landlords who are in the process of evicting a client for back rent, for example. If a month's worth of rental assistance is provided to a client, the client should receive a month's worth of housing.

If a landlord is in the process of evicting a tenant and the tenant is in fact eligible for housing assistance, prior to issuing the rent voucher to the evicting landlord, it would be in both the client's and municipality's best interest to ensure that the rental payment will stop (or at least delay for 30 days) the eviction—guaranteeing that the basic necessity of housing will be provided to the client. In the event the rental payment will not prevent the eviction, the municipality should direct the client to seek an alternative dwelling, again within their

ability to pay. As a side note, court fees involved in preventing an eviction are allowable expenses under the GA program.

However, municipalities must keep in mind that locating an alternative dwelling may also result in a need for a security deposit. Although the law states that as a general rule a security deposit will *not be considered a basic necessity* and thus municipalities are not generally responsible for paying them, should the *security deposit become required for “emergency purposes,”* the municipality may become responsible for paying it. The term “emergency purposes” is then defined as “any situation in which no other permanent lodging is available unless a security deposit is paid.” Thus, this very important factor must be considered by the GA Administrator prior to directing a client to relocate.

Security Deposits

As a general rule, security deposits will not be considered a basic necessity *unless a security deposit is required for “emergency purposes.”* Therefore, the determination as to whether a security deposit must be paid involves an analysis of whether there is any permanent lodging (i.e., **not** hotels, motels or rooming houses) which is available (i.e., vacant and ready for occupancy) and for which no security deposit is being required. If it can be established that virtually all permanent and available housing in the area requires a security deposit of some amount, then the security deposit *is a basic necessity* and *must* be included in the applicant’s budget.

The burden of establishing whether the “emergency purposes” test has been met would appear to initially fall on the applicant. If the applicant can reasonably satisfy the administrator that all landlords in the area are requiring a security deposit, the burden would then fall on the administrator to prove otherwise by directing the applicant to a landlord who was not requiring a security deposit. *For this reason, administrators would be well advised to keep a running list of area landlords who will readily waive a security deposit.*

Under any circumstance, when the municipality does pay a security deposit, the administrator should make it clear to the landlord (in writing) that the security deposit is to be returned to the municipality when the apartment is vacated. The administrator may even want to inspect the property, creating a written inventory of pre-existing defects which is then signed by the landlord, prior to occupancy in order to rebut any attempt by the landlord to retain the security deposit after vacancy for reasons of damage allegedly caused by the tenant.

Mortgages

In 1982 the Maine Supreme Court ruled in *Beaulieu v. Lewiston* 440 A.2d 334 (1982) that municipalities may be required to pay shelter costs for eligible applicants regardless of whether that shelter payment is in the form of rent or mortgage. The *Beaulieu* decision did not go so far as to say the payment of a mortgage payment was obligatory. Instead, the Court established a set of eight criteria which should be evaluated by the administrator in order to determine if the payment of the mortgage is actually necessary.

Those criteria are now part of MMA's model GA ordinance, and they are discussed in some detail below. In response to the *Beaulieu* decision, MMA sought an amendment to the law and in 1983 the Legislature authorized municipalities to place a lien on a GA recipient's real estate if the municipality had paid that recipient's mortgage with GA funds (§ 4320). In 1991, the Legislature further amended § 4320 to allow municipalities to place the same type of lien on property when GA is used to pay for a capital improvement to the property (e.g., furnace/chimney repair, water/septic system repair).

Liens can be imposed on real estate **only** if the municipality has granted assistance for a mortgage payment or capital improvement. No lien can be imposed for granting assistance for any other basic necessities, such as food, rent, utilities, fuel, etc. Although there are some restrictions on the lien process, it at least serves the purpose of allowing the municipality to recover a portion of the equity in the property it has helped a recipient accumulate by either paying his/her mortgage with GA funds or paying for a capital improvement to his/her property.

Liens

After the GA administrator makes a mortgage or capital improvement payment, the municipal officers or their designee (e.g., the GA administrator, treasurer, administrative assistant—any municipal official specifically designated by the municipal officers for this purpose) can decide to place a lien on the real estate. Unlike tax liens, however, the lien has no specific term, and it cannot be claimed or enforced except under very restricted conditions.

The lien stays in effect against the real estate until it is enforced, but it can be enforced **only** *when the recipient dies or when the property is transferred by sale or gift*. It **cannot** be enforced if the recipient is receiving any form of public assistance (TANF, food supplement benefit, GA, etc.) or if, by redeeming the lien, the recipient would again become eligible for assistance. These restrictions were imposed on the GA lien process because the purpose of the lien was not to force GA recipients out of their homes but to enable the municipality to

recover the funds it contributed which enhanced the equity in the recipient's property, while allowing the recipient to continue to live in the house.

When to Pay

In the *Beaulieu* case the Supreme Court said that Maine law required municipalities to pay shelter costs whether the payment was for rent or mortgage. In explaining its decision, however, the court asserted that municipalities were not required to grant GA for mortgage payments in every situation, and it outlined eight factors that must be taken into consideration when determining payment.

In determining whether an applicant is eligible to receive GA for a mortgage payment, as with any other type of request, the administrator must make an "individual factual determination" of whether the applicant has an *immediate need* for such assistance. In reaching this decision the administrator must consider the extent and liquidity of the applicant's proprietary interest in the house. The court said that the factors to be considered 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. *comparison* between the amount of *mortgage obligations and anticipated rental* charges the applicant would be responsible for if he or 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 payment;
7. the *likelihood* that the provision of GA for housing assistance will *prevent such dislocation*; and
8. the applicant's age, health and social situation.

All of these factors must be taken into consideration when determining whether to make a mortgage payment for an applicant. Some municipal officials express outrage that public

funds are making it possible for a recipient to live in a home that may be more valuable than those homes owned by the people who pay the taxes that make GA possible.

Administrators must not let their personal feelings influence their decision. Often the most compelling reason to make a mortgage payment is that the mortgage may be the least expensive way for a municipality to fulfill its obligation. In addition, the municipality has the opportunity to place a lien against the real estate to recover its costs. It is important to evaluate a request for mortgage payment rationally and determine the most equitable way to handle the request.

Requests for mortgage payments, as illustrated by the court, *do not have to be granted in all cases; but mortgages should always be considered in the applicant's budget to determine eligibility.*

The MMA model ordinance suggests that mortgages not be paid unless a mortgage foreclosure notice has been issued or the failure to make a mortgage payment will reasonably result in the issuance of a foreclosure notice. At that point there is more of a likelihood that the applicant is in immediate need.

Once a person receives a foreclosure notice, the administrator should tell the applicant that he or she should attempt to renegotiate the mortgage or otherwise work out a more favorable arrangement with the creditor. If the administrator is convinced that the applicant is eligible for housing assistance in the form of a mortgage payment and no alternatives exist, the administrator should grant the request.

NOTE: *Municipalities may direct GA applicants to obtain other housing (e.g., a rental unit) should the client be eligible for an amount of GA that will not stop or at least forestall the foreclosure process (see "Emergencies" near the end of Chapter 2).*

Process

As could be expected, there are strict notice requirements the municipality must follow when placing a GA lien on a recipient's property. When a person requests GA for a mortgage payment or capital improvement, the administrator should inform the applicant that if the request is granted the municipality will place a lien on the property to secure the municipality's right to recover both the amount of that payment plus interest.

Notices/Lien Forms—Three Types

Once the administrator grants the request for the mortgage or capital improvement payment, the municipality has *30 days* to file a notice of the lien with the county Registry of Deeds. If the *municipal officers* have not designated the GA administrator or other person to file lien notices, they must decide if it is appropriate to place a lien on the property. The notice must be filed within *30 days* of granting the mortgage or capital improvement payment. The steps to follow in order to file a GA lien are as follows:

First, at least ten days prior to filing the lien notice in the Registry, separate notice must be sent to the recipient, the owner of the real estate if other than the recipient, and any record holder of the mortgage. This notice, sent by certified mail, return receipt requested, must inform the recipient that the lien is going to be filed at the Registry. This notice must also state the restrictions on the lien (i.e., the lien cannot be enforced except upon the recipient's death or upon the transfer of the property, and it can't be enforced while the recipient is receiving any form of public assistance or if the recipient would in all likelihood again become eligible for GA if the lien were enforced). Finally, this notice must state the name, title, address, and telephone number of the person who granted the assistance.

The second lien form is the actual form filed with the Registry of Deeds which establishes the lien for that first payment *and for all subsequent mortgage or capital improvement payments made on behalf of the recipient* each time an additional mortgage or capital improvement payment is made.

A third notice must be given to the recipient each time an additional mortgage payment is made. This notice must repeat the information on the original notice, relative to the limitations and who to contact to answer questions, and it must inform the recipient of the previous amount secured by the lien and the new total, with the addition of the most current grant of assistance plus interest. In summary, there are three types of notices:

1. **Notice to recipient, owner of the real estate, and any record holder of the mortgage.** This notice must be sent at least *ten days before filing the lien* at the Registry of Deeds. This notice must contain the restrictions on the lien and the name, title, address, and phone number of the person who granted the assistance. This notice must be sent by certified mail, return receipt requested, when the lien is first about to be filed.
2. **Filing the lien with the Registry of Deeds.** This must be filed within 30 days of actually making the mortgage or capital improvement payment. This notice needs to be filed only once since this lien secures all subsequent payments.

3. **Notice each time an additional mortgage or capital improvement is made.** This notice is *similar* to the first notice above in that it contains essentially the same information. As a matter of law, this subsequent notice needs to be given to the recipient only, although MMA recommends issuing this subsequent notice to all the parties to whom the first “10-day” notice was issued, namely, the recipient, the property owner if other than the recipient, and the mortgagee. This subsequent notice must state the total amount secured by the lien with the addition of the most recent mortgage payment and interest. This notice must also be sent by certified mail, return receipt requested.

Sample notice forms for mortgage and capital improvement liens are found in Appendix 8.

Property Taxes

Administrators often ask if property taxes should be considered a “basic necessity” for the purposes of determining an applicant’s eligibility for GA. The answer is not entirely straightforward.

Generally, an applicant’s annual property tax, *prorated to 30 days*, may be included in the budget as part of the applicant’s overall 30-day shelter cost. This would only be done, however, if the combination of the applicant’s direct shelter expense (i.e., the mortgage payment) and the 30-day property tax, when combined, did not exceed the ordinance maximum for housing.

For example, if Emma Obrien’s property taxes for the year were \$800, her 30-day prorated expense would be \$67 ($\$800/12$). If the combination of Emma’s mortgage obligation and her monthly property tax obligation was less than the ordinance maximum for housing, that combination total could be included in Emma’s budget when determining her unmet need. The administrator would not, however, actually pay Emma’s monthly property tax from her unmet need. The purpose of budgeting in the property tax would be to recognize and, in effect, subsidize Emma’s monthly property tax obligation. If, on the other hand, Emma’s mortgage payment already exceeded the ordinance maximum for the direct housing obligation, Emma’s 30-day property tax obligation would not be included.

An exception to this general process would occur when a household is facing a property tax emergency. The procedure to follow is described in MMA’s model GA ordinance. A property tax emergency, according to MMA’s model ordinance, would occur when the applicant is *facing a property tax foreclosure within 60 days, and the tax lien foreclosure would reasonably result in the applicant’s eviction from the property as a matter of*

municipal policy or practice. It is only when these standards are met that an administrator could actually pay a person's property tax with GA funds.

DHHS regulation also places a limit on the municipal authority to pay an applicant's property taxes with GA funds. That state regulation reads:

36 M.R.S.A. § 841 et seq. establishes a poverty tax abatement process. This process is an available/potential resource. The client has a legal entitlement to this process. Municipalities should not use the General Assistance Program to assist with delinquent property taxes unless foreclosure and subsequent eviction is imminent and it is the most cost effective avenue. (*DHHS General Assistance Policy Manual, Section IV*).

In accordance with this regulation, MMA's model GA ordinance also directs the administrator to inform all applicants about the poverty abatement process when there is an application made for emergency GA for their property taxes. If an applicant, when informed about the poverty abatement process, chooses to apply for an abatement rather than for GA for property tax relief, that is the applicant's choice. *No one can be forced to apply for one form of local property tax relief instead of the other.*

If the applicant, after being informed of the poverty abatement process, chooses to apply for GA relief, the administrator would proceed to evaluate the property tax emergency just as any other request for emergency assistance would be evaluated. If the applicant was eligible for emergency GA for his or her property taxes in order to protect the applicant's continued ownership and use of residential property, the necessary amount of GA could be issued to the town for that purpose.

See Appendix 9 for MMA Legal Services' Information Packet on "Poverty Abatements."

Heating Fuel

Requests for fuel are frequent and often of an emergency nature during the winter. Although most municipal ordinances specify the maximum allotment for fuel consumption per month based upon the time of year, this is one basic necessity where maximum levels are often exceeded. This is due to a number of factors including poorly insulated housing, temperature fluctuations, fluctuations in the price of heating fuel, etc.

Despite an administrator's frustration over what may very well be an excessive use of fuel, by and large the administrator has few choices in the middle of the winter when a family

runs out of fuel and has no cash available to purchase more. Certainly the administrator should advise recipients about conservation measures and should refer them to the proper agency to apply for weatherization and fuel assistance (*see Appendix 11*). In addition, the administrator can review the degree to which the applicant could have financially averted the heating fuel emergency and limit the issuance of emergency GA for heating fuel according to the pertinent standards in the municipal ordinance (*see “Limitations on Emergency Assistance,” near the end of Chapter 2*).

However, the plain fact is that in most cases the administrator will feel obligated to fulfill the applicant’s request for actual fuel needed because to go without fuel in the winter could be life threatening. Administrators should make it clear to recipients, however, that they are responsible for keeping track of their fuel supply and they should monitor it so they won’t have to apply for GA when they are totally out of fuel. This benefits both the recipient, who won’t have to go through a cold night, and the administrator, who won’t have to get a late night weekend call and won’t have to pay a special delivery service fee to the fuel dealer. Some municipalities solicit bids from area fuel companies and award the contract to the dealer who offers the best price and agrees to make deliveries on call and with no service fee.

Municipalities are sometimes caught in the middle between a tenant who pays for fuel as part of the rent and a landlord who neglects or refuses to supply adequate fuel. There is a state law addressing this situation (14 M.R.S.A. § 6021). The statute, known as the “Implied Warranty and Covenant of Habitability Law,” requires all landlords to keep rental dwelling units fit for human habitation (i.e., safe and decent; 14 M.R.S.A. § 6021). If there is a condition which makes the unit unfit, the tenant can file a court complaint against the landlord and the court can order the landlord to correct any dangerous condition. The law specifically states that landlords who agree to provide heat as part of the lease or rental agreement are violating the law if:

- the landlord maintains an indoor temperature which is so low as to be injurious to the health of occupants not suffering from abnormal medical conditions;
- the dwelling unit’s heating facilities are not capable of maintaining a minimum temperature of at least 68 degrees Fahrenheit at a distance of three feet from the exterior wall, five feet above floor level at an outside temperature of minus 20 degrees Fahrenheit; or
- the heating facilities are not operated so as to protect the building equipment and system from freezing. 14 M.R.S.A. § 6021(6).

If the landlord does not comply with these requirements by allowing a building's heating system to run out of fuel, the tenants can, after giving the landlord notice, purchase heating fuel and deduct the cost of the fuel from the amount of rent they owe. The law goes on to state: "for tenants on General Assistance, municipalities have the same rights of tenants." 14 M.R.S.A. § 6026(9). This means that if a tenant applies for GA to receive fuel because the landlord refuses to *provide fuel after being notified by the tenant that fuel is needed and fuel is part of the rental payment*, the municipality can order fuel and deduct the amount of fuel from the tenant's next request for rent.

In 1989, the Legislature expanded a tenant's right to pay for certain services or repairs directly and deduct those payments from his/her rent. 14 M.R.S.A. § 6024-A allows a tenant to pay an outstanding utility service to a rented dwelling unit and deduct that payment from his/her rent. GA administrators should be aware of this provision whenever a tenant in a utilities-included rental is presented with a utility bill or threatened with disconnection.

For more information regarding "The Rights of Tenants in Maine" refer to Appendix 14, A Pine Tree Legal Assistance Handbook on the issue of tenant rights.

Example: Grace and Armand LeMont and their four children live in an apartment where they pay \$350 a month, heat included. The landlord is responsible for supplying fuel. The LeMonts are current in their rent because of the GA they receive to supplement their income, but the last two weeks of the month they usually run out of oil. This happened last winter, and it's starting again this year. Grace spoke to an advocate who advised her to complain to their landlord in writing. Grace did this but received no response from the landlord. Sunday, they totally ran out of fuel; Armand called the landlord, who promptly hung up. Grace applied for and received GA for the fuel. In the written decision, which was given to both the LeMonts and the landlord, the administrator explained that the fuel was supplied pursuant to Title 14 M.R.S.A. § 6026(9) and that the rental payment for the following month would be reduced by the cost of the fuel (\$120).

Utilities

In addition to needing utilities for heat, recipients also need electricity or gas for lights, cooking and refrigeration. The administrator should budget for the actual cost up to the maximum level established in the ordinance. It is important to know if the ordinance includes electricity for light, heating, hot water, and cooking in the same or in separate categories.

One of the perennial issues regarding GA for electric utility needs concerns the coordination between the GA program and the Winter Disconnection Rule, as the “Winter Rule” is administered by the Public Utilities Commission. There is a discussion of the Winter Rule in Appendix 11, but in summary, there are two issues associated with Winter Rule/GA coordination; 1) how should the administrator deal with payment arrangements established between the customer and the utility company pursuant to the Winter Rule; and 2) how the administrator should deal with large back bills which sometimes accrue as an inadvertent result of the Winter Rule.

First, as a matter of GA law, the administrator does not have to take into special consideration an applicant’s payment arrangement with the utility company. When determining such an applicant’s eligibility, the administrator would typically budget for either the applicant’s actual 30-day utility cost or the ordinance maximum for utilities, whichever is less (*see “The Unmet Need Test,” in Chapter 2*).

The MMA model GA ordinance, however, *allows* (but does not require) an administrator to budget an applicant’s payment arrangement under certain circumstances. The reason this authority to budget for a payment arrangement was created in the MMA model ordinance is because in some circumstances customers enter into payment arrangements which provide for very small payments during the winter season which balloon into proportionally larger payments during the summer. If the administrator only budgeted for such an applicant’s actual 30-day cost up to the ordinance maximum, those applicants with these balloon-type arrangements would not be eligible *during the course of a year* for the same amount of GA for utility purposes as an applicant who had no special payment arrangements with the utility. For further information about the specific conditions governing this authority to budget for special payment arrangements, consult MMA’s model GA ordinance.

Because the Winter Rule can make it more difficult for utility companies to effectively collect unpaid bills during the winter season, another side-effect of the Winter Rule is that some applicants build up large unpaid utility bills which can lead to utility disconnection when the Winter Rule is lifted in the early Spring, or before the Winter Rule goes into effect in the late Fall. In the past, municipal administrators have been frustrated by the fact that some applicants let their utility bills go unpaid all winter and in the spring the municipality is expected to pay the entire bill. This frustration should be somewhat alleviated by the municipal authority to limit emergency assistance which is now found at § 4308(2)(B) (*see “Limitations on Emergency Assistance,” near the end of Chapter 2*) and which allows administrators to request from an applicant sufficient documentation to prove that the applicant could not have financially averted the utility disconnection.

Personal & Household Supplies

This category includes items that are needed to maintain the safety and decency of the household such as cleaning and laundry supplies, paper products, toothpaste, diapers, etc. These are usually supplied in accordance with the maximum established in the ordinance or as the administrator believes reasonably necessary.

Clothing

Clothing must be provided as needed. Except in emergencies (fire, flood, etc.) and when there is an immediate need (such as boots or long underwear in the winter), clothing may be a postponeable expense but not indefinitely. Before granting clothing assistance, the administrator should be satisfied that the applicants have attempted in good faith to meet their needs by shopping at discount stores or clothing thrift shops in the area. Applicants can be referred to clothing charities in the area for their needs *providing they are willing to make use of charitable services (see “Available Charities,” in Chapter 3).*

If the applicants are unwilling to make use of available clothing charities themselves, the administrator can either obtain the necessary and suitable clothing from a vendor, charitable or otherwise, and make it available to the applicant, or issue a voucher to any clothing vendor in an amount sufficient to purchase the necessary clothing items. Some administrators take it upon themselves to establish clothing drop-off centers or clothing drives in order to collect clothing which is made available to all applicants as necessary.

Telephone

State law requires municipalities to consider as a necessity basic telephone charges when a telephone is necessary for medical reasons. Prior to granting this assistance, the administrator should require that the applicant present a letter from a physician stating that it is essential that the applicant have telephone service, except that such verification would not be necessary if the applicant's medical need for a telephone was obvious. The administrator should make it clear to the applicant that the municipality will only pay for costs associated with the basic service and not for unnecessary long distance charges.

Non-Prescription Drugs

In 1989, the Legislature added “non-prescription drugs” to the list of “basic necessities” in GA law. Most, if not all municipalities provided in their ordinance for such a category of assistance. This category would include aspirin, cough syrup and any other over-the-counter medicine, and a maximum amount of assistance available for these items could be established by ordinance.

Medical Services

Certain medical care is a basic necessity that municipalities may be required to pay for from time to time. Municipalities, however, are not required to pay for medical expenses under all circumstances. Municipalities are required to grant reasonable requests for medical supplies such as aspirin, bandages, etc., essential or medically necessary medications prescribed by a physician, and *non-elective* medical care. They may also have to pay doctor or hospital expenses under the following conditions.

Prior Notice

If people need to go to a doctor or hospital and they cannot afford it and want the municipality to pay for it, they must first give the administrator prior notice. Prior notice is necessary so the administrator can verify that the medical services are necessary and can approve the expense. Prior notice also gives the administrator the opportunity to refer the applicant to a low-cost health care provider if there is one in the area.

The administrator should require the applicant to present a letter from the physician stating that the service is medically necessary. If the applicant needs to go to a doctor and doesn't have a letter, the administrator could consult with the applicant and then call the doctor's office to confirm that the applicant has an appointment and that the visit is necessary. *If a person does not give the administrator prior notice, the municipality is **not liable** for the expense unless it is an emergency.*

Hospital Care

In GA law, the pertinent section dealing with a municipality's responsibility to pay for hospital care is found in 22 M.R.S.A. § 4313(1). This section of law describes two responsibilities of a hospital with regard to the care the hospital must provide to indigent patients.

- **Emergencies.** When people need emergency medical attention, obviously they cannot give the GA administrator notice prior to admission to a hospital. The hospital, however, is required by state law to notify the municipality of the admission if a patient is unable to pay the medical bill (or if the patient will not be covered by "Free Hospital Care") and the hospital wants the municipality to pay. 22 M.R.S.A. § 4313.

The hospital must notify the administrator *within five business days* of the patient's admittance to the hospital. If the hospital fails to give the municipality proper notification within the five business days, the municipality has no legal obligation to pay the bill.

- **Charity Care.** The second provision of § § 4313 reads: “In no event may hospital services to a person who meets the financial eligibility guidelines, adopted pursuant to section 1716, be billed to the patient or municipality.” The section of Title 22 being referenced here, § § 1716, establishes a regulatory authority in the Department of Health and Human Services to adopt income guidelines to be implemented by hospitals for the provision of health care services to patients determined unable to pay for services.

These charity care requirements act in conformity with the provisions of the Hill Burton Act (42 USC § 291 et seq.) implemented by regulation at CFR 42 § 124.506 and more generally the Public Health Services Act. (42 USC § 201 et seq.). The state regulations of “Hospital Free Care” guidelines are found in Chapter 150 of the Department of Health and Human Services – General Rules (10-144).

The current rule revises the Department of Health and Human Services guidelines for the free care policies of hospitals, including minimum income guidelines (based on the Federal Poverty Guidelines) to be used in determining whether individuals are unable to pay for hospital services. The patient’s annual income is calculated as either the patient’s income over the last 12 months or three times the patient’s income over the last four months. The rule now also sets forth procedures for patients to request a fair hearing if denied free care.

Income eligibility for General Assistance is structured around 100% of HUD Fair Market Rental values, which yield a GA “standard of need” that runs from 45% to 85% of the federal poverty level. Therefore, in nearly every case, the GA applicant who would be eligible for GA is also eligible for “Hospital Free Care.”

*In short, the Hospital Free Care regulations and the wording of 22 M.R.S.A. § 4313 **generally** remove a municipality’s obligation to pay for an applicant’s hospital care. Note however, that individuals are not usually provided with a filled prescription on their release from the hospital, which means a municipality may be asked to assist with medication costs.*

- this is not to say, however, that a GA application for hospital care assistance should be automatically denied on the basis of the Hospital Free Care program. Whenever an applicant does apply for hospital care assistance, the administrator should:
- obtain verification that the applicant has applied for and been denied charity care from the hospital;
- verify that the hospital care is medically necessary and non-elective;

- determine that the applicant does not have sufficient income to work out a payment arrangement with the hospital for the hospital bill;
- negotiate a discount rate with the hospital, based on the Medicaid rate guidelines, for any amount of the bill to which the municipality might be exposed; and provide the necessary financial assistance.

At this point it should be noted that municipalities have the option of paying the hospital bills in their entirety or spreading the payments out over a reasonable length of time. This is strictly a policy decision of the municipality. Some hospitals have an early payment incentive plan which administrators should be aware of.

When reaching its decision the municipality should take into consideration both the financial and physical condition of the applicant and whether his/her job and income prospects are good, thereby eventually enabling the applicant to assume financial responsibility for all or part of the bill. In the alternative, the administrator should determine whether the applicant has no employment prospects or earning capacity. *If the municipality decides to pay the bill in installments, the applicant **must apply regularly and qualify** for assistance each month.*

Dental & Eye Care

People may apply for GA to enable them to go to the dentist or eye doctor. As with other medical care, the applicant must give prior notice unless it is an emergency.

Requests for assistance with dental and eye care are generally granted if the service is essential and there are no other resources available to provide these services (*see Appendix 11*). Municipalities may receive requests for extensive dental work, dentures, or glasses. Before granting these requests the administrator should be satisfied that the service is “medically necessary.” The administrator can request a written statement from the dentist or eye doctor, or can seek a second opinion—provided that the municipality pays for the second opinion.

In some areas there are health clinics that offer services at reduced rates, or charitable organizations that subsidize these services. Both of these resources should be explored prior to granting a request for these medical services. If none of these resources are available and the doctor has verified that the services are essential, the municipality must grant the necessary assistance.

Burials & Cremations

Municipalities *are responsible for paying the direct burial or cremation expenses*, up to the ordinance maximums, of anyone who dies leaving no money or assets to pay the burial expenses and who has no liable relatives who are financially able to pay the burial or cremation costs. 22 M.R.S.A. § 4313. *Relatives who are liable for the burial/cremation costs are parents, grandparents, children and grandchildren.* Note that children and grandchildren are considered liable relatives with respect to burial/cremation expenses **only**.

There are a number of issues to consider when analyzing the municipal obligation to assist with the payment for a burial or cremation.

- **Burial & Residency.** The question often arises as to which municipality is responsible when assistance is being requested to bury or cremate a person from Town A but the deceased person's liable relatives live in Town B, Town C and Town D. The administrator should remember that the *purpose of burial provision of GA law is to provide the funeral director with necessary financial assistance to bury or cremate an indigent person when there is **no other** resource available for that purpose.*

To put it another way, the “applicant”—so to speak—for burial assistance is the deceased person and so it is the **deceased's GA residence** at the time of death that determines which municipality is responsible for burial assistance, **not** the various residences of the liable family members. If burial residency was determined by any other criteria, there would be nothing but confusion as to the issue of responsibility when a person from one town needed to be buried and the liable relatives were scattered across the state.

- **Burial & Cremation—Funeral Director's Responsibilities.** State law requires the *funeral director to notify the GA administrator **prior to burial** or cremation or by the end of three business days following the funeral director's receipt of the body, whichever is earlier.* Municipalities may choose to institute a written notification policy—one which would require funeral directors to provide such notice in writing. If a written notice is required, municipalities can ask for the notification to be sent via fax in order to expedite matters.

*Therefore, when a funeral director is requesting GA to pay for a burial or cremation and the GA administrator does not receive prior notice and thus has no opportunity to approve the expenses, the municipality has **no legal obligation** to pay the bill.*

The GA administrator should also expect the funeral director to make an effort to identify the availability of resources to pay for the burial or cremation; including: a description of the deceased's estate to the extent it is known; the names and addresses of the legally liable relatives (grandparents, parents, children and grandchildren of the deceased who live or own property in Maine); the potential eligibility for burial or cremation benefits such as veterans' or Social Security burial benefits; and burial contributions offered from any other sources, such as a local church group or friends of the deceased.

The GA administrator should not expect the funeral director to have all this information at the time of initial contact. Since the *funeral director must make an initial request to the GA administrator within **three business days** after receipt of the body*, the funeral director has an interest in contacting the municipality whenever he or she *suspects* that there will not be enough money to completely cover burial/cremation costs. From that point on, the GA administrator and the funeral director should work together to collect and share the necessary information to calculate eligibility.

Burial & Cremation—Administrator's Responsibility

When first contacted by the funeral director, the administrator should inform the funeral director of the maximum amount the municipality can authorize for the burial or cremation expense. This puts the funeral director on notice that he or she should not expect to be reimbursed for any amount in excess of the maximum amount allowed in the municipal ordinance.

The administrator should explain that if the relatives, third parties or other programs (e.g., veterans' or Social Security burial benefits) can pay a portion of the expenses, the municipality will reduce its obligation and pay the balance up to the amount allowed in the ordinance.

For instance, if the municipal ordinance allows \$1,000 as the maximum amount it will pay, and the relatives pay \$500, the municipality will pay up to the \$500 balance even if the funeral director's total bill is \$1,800. In other words, if the family or others pay any part of the bill, the *municipality will **only** pay the difference between what the family pays and the maximum amount allowed in the ordinance for burial/cremation expenses.*

In addition, the administrator should explain that after the GA application for a burial is received, the GA administrator has ***eight days*** to reach a decision. This gives the administrator an opportunity to verify the information and determine if there are any other assets, resources or relatives who could contribute toward the burial.

NOTE: The MMA’s Legal Services Department cautions GA administrators not to sign documents containing “assumption of risk” clauses for cremations. It was brought to the attention of Legal Services, that certain “orders for cremation” contained language where by the municipality was to assume the risk of damage to the crematorium in the event the deceased had a pacemaker or prosthetic devise. In such cases, *the funeral director should bear the burden of making such a determination prior to cremation—it should not be the municipality’s responsibility to accept the risk of damage.* In the event a cremation document contains such language, the GA administrator should negotiate that section out of the document **prior to signing** any agreement.

Burial & Cremation—Calculation of Eligibility

The municipal obligation to financially assist with the burial or cremation of an indigent person is the difference between the ordinance maximum for the burial or cremation and the financial resources that exist for that purpose. Those financial resources are:

- the estate of the deceased;
- the financial capacity of legally liable relatives (grandparents, parents, children, grandchildren who live or own property in Maine);
- burial benefits such as those sometimes available to veterans and Social Security recipients with surviving spouses or immediate relatives;
- any actual financial contribution from virtually any other source, such as friends, community collections, church group donations, etc.

With regard to the deceased person’s estate, Maine’s Probate Code provides sufficient means for funeral directors to be paid for their services when there is an estate. 18-A M.R.S.A. § 3-805.

With regard to the financial capacity of legally liable relatives, it should be emphasized that the test to be applied is one of *capacity* to contribute financially, not the *willingness* to do so. If the administrator is able to identify liable family members who live or own property in Maine and who have sufficient income to pay for the burial or cremation in lump sum payment or by any reasonable installment arrangement, the request for burial or cremation assistance can be denied, even if those liable family members are not willing to contribute. To determine a relative’s financial capacity to contribute, the relative should be required to fill out a GA application—not for the purpose of applying themselves for GA, but for the sole purpose of calculating financial capacity.

It is important to remember that municipalities historically have been responsible for providing a decent burial for people who left no money and had no relatives to pay for their burial. However, GA is not intended to be a welfare program for liable relatives who could pay for burial expenses but do not want to, nor is it intended to be a collection agency for funeral directors who find it easier to bill the municipality.

Finally, a note about the type of burial arrangement is in order. Certainly the burial or cremation preparations should be carried out with dignity and respect. The wishes of the family should be fulfilled to the extent possible *within the confines of the **maximum assistance allowed** in the ordinance.*

With regard to the issue of family wishes, at the reasonable request of the Maine Funeral Directors' Association, the MMA model GA ordinance provides that the wishes of the family will be respected as to whether the deceased is buried or cremated. It is *only when the family members concur that a cremation is appropriate or when there are no known family members* that the administrator may elect to issue a benefit for cremation services that are more cost effective than burial services.

Burials are a very sensitive subject. Relatives applying for GA may be grief stricken and traumatized. They may want a funeral that entails much more than they or the municipality can pay. It is incumbent upon the GA administrator to be as sensitive as possible to the deceased's relatives, while also fulfilling the law.

CHAPTER 8 – Recovery of Expenses

Unlike many other public assistance programs, the GA issued on a recipient's behalf is treated more like a loan to the recipient than a no-strings-attached grant. There are five mechanisms designed into GA law that provide a process of recovery whereby municipalities can seek to recoup from a recipient part or all of the GA issued. Those five mechanisms are:

1. a general recovery process (i.e., civil action in small claims court) (§ 4318);
2. a process to recover assistance from a recipient's legally liable relatives (§ 4319);
3. an authority to place a lien on real property when GA has been used to make a mortgage payment or capital improvement (§ 4320);
4. an automatic lien on any Workers' Compensation lump sum payment issued to a recipient (§ 4318); and
5. a lien on any Supplemental Security Income (SSI) lump sum payment issued to a recipient (§ 4318).

Each of these recovery processes are briefly described as follows:

The General Recovery Process

Section 4318, in its first paragraph, allows a municipality to recover the amount of assistance it has granted to a recipient—by civil action if necessary—if and when the recipient later becomes financially able to repay the municipality. At the time of a person's first application for assistance and at the time of every grant of assistance thereafter, the GA administrator should make the applicant aware of this provision of the law. It is particularly important to remind applicants of their repayment responsibilities when the administrator becomes aware that a recipient may soon be returning to work or receiving a large retroactive lump sum payment, such as a settlement in an accident claim.

When it becomes clear that a recipient's ability to repay the municipality is a distinct possibility, the administrator should first seek voluntary reimbursement from the recipient. If the recipient expresses a willingness to repay the municipality voluntarily, a simple agreement to that effect can be drawn up, dated and signed by recipient, administrator and witness. This type of agreement can be written in straightforward language, with flexible installment payment schedules.

Municipalities are cautioned that such agreements should **only** be entered into **after** granting GA and in **no event prior to or as a condition** to receiving GA. (See Appendix 13 for sample “Notice of Lien” in anticipation of a disposition of accident/injury claim.)

If the recipient does not wish to sign such an agreement after receiving GA, and at the time of receiving a lump sum payment or becoming gainfully employed the recipient does not voluntarily repay the municipality, the town can sue the recipient for recovery. If the amount to be recovered does not exceed \$6,000 (the current maximum amount), the municipality can take recipients to Small Claims Court (for a filing fee of approximately \$50) where it is not necessary to be represented by an attorney. Because the maximum recovery amount allowed and filing fees for small claims court change from time to time, checking with the court to see what the current amounts are is recommended. The Judicial Branch publishes a very helpful publication called, “*A Guide to Small Claims Proceedings in the Maine District Court*” which is available by contacting:

Administrative Office of the Courts
62 Elm St. (2nd Fl.), PO Box 4820
Portland, Maine 04112-4820
Tel. # 822-0792

There are two factors an administrator should bear in mind when seeking recovery. First, the recipient must be ***financially able*** to repay the municipality, which means—in addition to other reasonable criteria—that the recipient would not become destitute and eligible for GA as a result of the repayment. The other factor to consider is that 1985 legislation added a paragraph to § 4318 to expressly prohibit a municipality from recovering any assistance granted to a workfare recipient *as a result of a workfare injury*.

Relatives

As § 4318 permits a municipality to seek recovery from a recipient, § 4319 permits a municipality to seek recovery from—and take to court, if necessary—a recipient’s *legally liable relatives*.

As has been noted in an earlier section of this manual, § 4319 of GA law provides that parents are financially responsible for the support of their children who apply independently for GA and are *under the age of 25*. Spouses, by that same section of GA law, *are financially responsible for each other*. Under this statute, municipalities may seek recovery from the financially liable individuals provided the responsible parties either live in Maine or own property in this state and have a financial capacity to repay the municipality.

As a first step in this recovery process, the administrator should attempt to have the liable relatives voluntarily assume responsibility for providing the basic needs for their children or spouse (see “*Enforcement of Parental Liability*,” in Chapter 4). If the parents or spouse are unwilling to provide direct support, but there is undoubtedly a financial capacity to do so, the municipality should send a bill to the parents or spouse for the amount of GA granted the applicant. If that bill is ignored, the municipality could seek recovery from the relatives in court.

Section 4319 limits a municipality’s ability to recover from liable relatives only the amount of GA granted to the minor or young adult, or spouse, during the *preceding 12 months*, so if the administrator thinks an aggressive collection action is appropriate, the process should be initiated in a timely manner. Again, before a municipality can pursue any of these steps it must be sure that the relatives are financially able to provide the support or reimbursement. Seeking recovery in court from impoverished and therefore judgment-proof people is a waste of time and money.

In a final note on this issue, GA administrators should exercise good and careful judgment when considering a collection action against a spouse. It is all too often the case that a marriage separation that leaves one spouse impoverished and the other with some financial security is also a separation loaded with personal acrimony that can, in turn, lead to violence and abuse. If there is some indication that a spouse on the receiving end of a collection action might respond in an abusive way toward the target of his hostility, the administrator would be well advised to consider backing away from the collection action. If there are children involved, the administrator may elect, instead, to advise the individual receiving GA to contact the Department of Health and Human Services’ Support Enforcement Unit in an effort to secure any child support obligations from the noncontributing spouse.

Mortgage Payment & Capital Improvement Liens

The third mechanism built into the law by which municipalities can recover some specific GA expenditures is described in § 4320. Under this section of law, the municipality can file a lien in the registry of deeds whenever GA is issued on behalf of a recipient towards a mortgage payment or a capital improvement for the housing in which the recipient is residing. This lien filing process is described in detail under “*Housing*,” in Chapter 7.

It should be noted that a GA lien is unlike a municipal tax lien because a GA lien is not a foreclosing lien. The GA lien enjoys no special priority over any other lien that may have previously been filed against the property. Because the GA lien is necessarily lower in

priority than a mortgage lien, the municipality will very likely lose its GA lien if the property is foreclosed on by a mortgage holder and conveyed at a mortgage auction.

Other than this circumstance of mortgage foreclosure, the GA lien can be effectively enforced at the time the property is sold. If a subsequent sale of the property involves bank financing, the bank's title search will quickly identify the lien and either the buyer or seller or both will be obliged to discharge it. If the property is subsequently conveyed without bank financing, conveyed by a quit claim or "release" deed, or transferred as a gift or part of an estate, it is possible that no one will voluntarily come forward to discharge the lien. In that case, the municipality should notify the property owner that the town will be enforcing its lien pursuant to § 4320. If necessary, the town may have to take the new property owner to court to enforce its lien.

Workers' Compensation Lump Sum Liens

In December 1991, § § 4318 was amended to give municipalities a statutory lien on Workers' Compensation lump sum benefits for the amount of GA issued by the municipality to the person subsequently receiving the Workers' Compensation lump sum payment. *The language of § 4318 creates the lien automatically:* that is, there are no particular notice or paperwork requirements necessary to perfect the lien.

On the other hand, if the GA recipient's employer or the employer's insurance company does not know about the municipal lien, they will not be sufficiently aware to segregate out the municipal share of any lump sum payment issued to a Workers' Compensation beneficiary. Therefore, it is for the *purpose of actually collecting on the lien*, rather than establishing or perfecting the lien, that the following paperwork requirements are recommended.

- **Definition of "lump sum payment."** For obvious reasons the new language in § 4318 establishes a lien against Workers' Compensation *lump sum benefits*, ***not*** the regular, weekly Workers' Compensation benefits that a recipient might be receiving. To enforce a lien against weekly benefits would merely create a proportionately greater need for weekly GA.

That being said, there remains some confusion over the issue of exactly what is a Workers' Compensation "lump sum payment." The reason for this confusion is that General Assistance law, in 22 M.R.S.A. § 4301(8-A) has one definition of "lump sum payment," and Workers' Compensation law, in 39-A M.R.S.A. § 352, defines and deals with its own version of "lump sum payments."

The Title 39-A definition would seem to limit the consideration of lump sum payments to lump sum *settlements*; that is, the *commutation of all future weekly* benefits to a lump sum. This commutation is potentially available to any ongoing recipient of Workers' Compensation benefits. The definition of "lump sum payment" in GA law is more generalized, and expressly includes "*retroactive or settlement portions of workers' compensation payments...*"

A retroactive payment would include a larger-than-weekly Workers' Compensation payment a recipient might receive if there was some delay in processing his or her claim, whether in contested or uncontested cases. In short, it would appear that the way § 4318 is now worded, in light of the § 4301(8-A) definition of "lump sum payment," *the municipal lien is to be applied and may be enforced against either Workers' Compensation lump sum settlements or retroactive Workers' Compensation lump sum payments of any other kind.*

- **Paperwork requirements—the UCC-1 Form.** The Workers' Compensation liens should be filed with the Office of the Secretary of State, Uniform Commercial Code division, on a UCC-1 form (*see Appendix 17 for sample "UCC-1 form"*).
- **How to fill in the form.** The form instructions ask that the form be typed.
 1. In Boxes #1 & 2—labeled "Debtor," the administrator should enter the name of the General Assistance recipient, using Box 2 if there is an additional recipient.
 2. In Box #3—labeled "Secured Party," the administrator should enter the name of the municipality, the name of the General Assistance administrator, and the municipality's mailing address.
 3. In Box #4—labeled "Collateral," indicate the collateral covered by the statement. Since there is no way to know the precise amount of General Assistance that will be recoverable at the time the Workers' Compensation lump sum payment is issued, the administrator should enter into this box the following:

"Any and all lump sum payment of Workers' Compensation benefits, up to the value of general assistance granted from secured party to debtor from January 1, 1992 forward, including future advances of general assistance to debtor."
 4. The administrator should leave blank the Box labeled "Alternative Designation" This would only apply should the town ever wish to sell these liens.

5. The administrator should also leave blank the small check-boxes regarding covered collateral.
6. The line labeled “Optional Filer Reference Data” should be left blank.

Where should this form be filed?

The form must be filed with the:

Secretary of State’s Office
Uniform Commercial Code Division
State House Station #101, Augusta, Maine 04333
Tel. # (207) 624-7736

There is a **\$15** filing fee, unless you have attachments creating more than 2 pages, then the filing fee is \$30. The lien is established for a period of **five years**. For continuing the lien, a *Continuation of Lien* form must be filed six months before the five-year period elapses. This means that a “tickler file” should be established for all filed liens so that somewhere around four and one-half years after any lien is filed, the appropriate official will know to file the continuation form.

Finally, after the UCC-1 form is completely filled out, a few photocopies should be made so that one photocopy can be sent to the “obligor” (the applicable compensation insurance company), and one to the recipient’s Compensation attorney. It is particularly important to put the employer’s insurance company and the injured employee’s Compensation attorney, if any, on the notice with regard to the municipal lien. For that reason, it is advisable to send them a photocopy of this UCC-1 form *by certified mail, return receipt requested*.

- **When should the UCC-1 form be filed?** At \$15 a filing, the administrator will not want to file these liens against all clients on the off chance that a few of them, someday, may receive a lump sum Workers’ Compensation benefit. The administrator will probably want to file these liens only when the recipient (a) is receiving Workers’ Compensation already or (b) has applied for Workers’ Compensation after sustaining a work-related injury.

The way the law is worded, however, it would appear that the municipality can recover any and all GA issued to a recipient after the effective date of the new law (December 23, 1991), even though some of that GA may have been issued before the recipient sustained a work-related injury. In this respect the Workers’ Compensation lien should be distinguished from the lien on retroactive Supplemental Security Income (SSI) benefits (discussed below). The SSI lien is expressly intended to capture only the interim GA issued to a person during the time between that person’s first SSI application and any subsequent retroactive benefit.

What this lien does not and cannot capture is GA issued prior to the effective date of this enabling legislation. Therefore, no GA issued prior to December 23, 1991 can be recovered by this lien. In an effort to reduce confusion, MMA's suggested language on the UCC-1 form starts the window of recovery on January 1, 1992.

- **Monitoring the lien.** After the UCC-1 form has been filed, the administrator's only task will be to keep track of how much GA is issued to the recipient. The way this process is supposed to work, when the employer or the employer's insurance company is getting ready to cut a lump sum check to the recipient, the administrator should be contacted and asked for the precise amount captured by the municipal lien. For this reason, again, a special "tickler file" should be kept on all cases covered by these liens.

Offsetting "Workfare" Performed

In April of 1998, the Maine Supreme Court rendered a decision in *Coker v. City of Lewiston*, 1998 Me. 93, which reversed previous statutory interpretation, DHHS policy and municipal practice with respect to lump sum Workers' Compensation awards and municipal GA liens relative to workfare performed. Whereas workfare was formerly deemed *solely a condition of eligibility for prospective general assistance*, the *Coker* decision characterized workfare as *discharging* the recipient's municipal reimbursement obligation to the extent of the value of workfare performed (*calculated at a rate of at least minimum wage*). Later that year, *Thompson, et al., v. Commissioner, Department of Health and Human Services and City of Lewiston* (CV-94-509, Me. Super. Ct., Ken., August 28, 1998), another case on point, was decided, albeit at the Superior Court level, which applied the *Coker* analysis to the SSI Interim Assistance Program. As a result, DHHS policy was amended to provide that **all workfare performed must be "backed out" or subtracted from the recipient's municipal obligation.**

Liens on SSI Lump Sum Retroactive Payments

Supplemental Security Income (SSI) is a federal entitlement cash benefit that is issued monthly to people who are unable to be employed for extended periods of time for reason of physical or mental disability. For more information about the SSI program, see Appendix 11.

It is not unusual for a person applying for Supplemental Security Income (SSI) to be denied benefits initially, only to be granted benefits after a lengthy appeal process. When this occurs, the SSI recipient is issued a retroactive benefit covering a period of time going back to the point in time on or after the date of initial SSI application when the applicant is determined to be disabled. Those retroactive benefits can be for many thousands of dollars.

Federal law, in a general way, prohibits the *recovery by legal process* of any benefits received by a Social Security recipient unless that recovery or repayment is voluntarily allowed by the recipient. 42 USC § § 407. Another more specific section of federal law, however, allows state governments to establish systems whereby the state government and political subdivisions of the state can be reimbursed for interim public assistance payments the state or municipalities must make while individuals are waiting for the SSI applications to be processed. 42 USC § 1383(g). In two steps, the Maine Legislature authorized DHHS to establish just such a system of interim assistance reimbursement.

The municipality and the state will be **reimbursed automatically** for the GA issued to a person while that recipient is waiting for an SSI eligibility determination and subsequently receives a retroactive lump sum SSI payment. To obtain this reimbursement, the municipality must first get the GA applicant to sign the reimbursement agreement. Because federal law gives sole authority to establish this reimbursement system with the state, a municipality may not establish a mandatory reimbursement agreement by its own authority, and even an agreement form to be signed by the GA recipient must be the form provided to the municipality by DHHS. *Any applicant who does not wish to sign the agreement will **not be eligible for GA.***

The Interim Assistance Agreement forms to be used in this process are only available from the Department of Health and Human Services. In addition to the actual agreement forms, DHHS will provide any municipality requesting the forms with a “Vendor Identification Form” and an instructional memo describing how the two forms are to be filled out and maintained.

The “Vendor Identification Form” provides the Department with the necessary information to cut the remainder check to the SSI recipient and mail the remainder check out after the value of the GA is removed from the initial SSI retroactive check. To obtain copies of these forms and the instructional memo, either write to the Department of Health and Human Services, General Assistance Unit, State House Station #11, 19 Union Street, Augusta, Maine 04333 or call the Department’s toll-free number (1-800-442-6003). (*Also, see Appendix 18.*)

After the recipient has signed the agreement form, the administrator should retain one copy, provide a copy to the recipient, and send a copy to the Department along with the Vendor Identification Form. After that point in time, any retroactive SSI payment will go directly from the Social Security Administration to DHHS, where the municipal/state share will be

diverted, with the remainder of the retroactive lump sum payment being passed through to the SSI recipient.

DHHS will have a limited period of time (ten days) to pass through the SSI retroactive benefit to the recipient after subtracting the municipal/state share. Therefore, as is the case with Workers' Compensation lien case records, the administrator should keep a tickler file on all clients who have signed the SSI reimbursement agreement so that the municipality can quickly tally the total GA captured by the SSI lien when DHHS needs that information. The Department now has model forms for the purpose of keeping track of GA benefits issued to pending SSI recipients.

CHAPTER 9 – Written Decision

Once the administrator has received and verified all the necessary information and has determined whether the applicant is eligible, the next step is to give a written notice of decision to the applicant. *The administrator **must give a written decision** to applicants each time they apply, whether or not assistance is granted or denied, within **24 hours** of receiving a completed application.*

It is absolutely essential that the administrator give the applicant a written decision within 24 hours of receiving each application, after deciding to reduce, suspend, terminate or make any change in an applicant's grant of assistance. Furthermore, if a person is denied assistance, the decision must state the specific reasons for the denial. Simply stating, "The applicant is denied because he is ineligible" is not sufficient notice.

Even when a person is granted assistance and receives a voucher for food or rent and is fully informed of the nature of the grant, the administrator must give *written* notice stating the specific reasons for the decision, and noting the type and amount of aid granted.

The purpose of the decision is to inform the applicants what assistance they were or were not granted and to inform them that they have the right to question that decision by appealing it to the Fair Hearing Authority. In addition to giving a written decision within 24 hours, assistance—if granted—must also be furnished within the same 24-hour period. *In emergencies, assistance must be provided **as soon as possible** within this period.*

Contents

There are six important elements in the notice of decision:

1. the reasons for the decision;
2. the amount of assistance granted or denied;
3. the specific period of eligibility (e.g., from Jan. 6, 2014 to Jan. 20, 2014);
4. the conditions, if any, that are being placed on the grant of assistance that may affect future eligibility;
5. the right to complain to the Department of Health and Human Services if the applicant believes the municipality has violated state law; and
6. the right to question or appeal the decision to a Fair Hearing Authority.

Reasons

The written decision must state whether the request for assistance has been granted or denied and give the reasons for the decision. The reason must be specific. For example, stating, “The applicant is granted assistance in accordance with section 6.9 of the ordinance,” does not fulfill the spirit of the intent of giving a written notice. The purpose of the decision is to provide the applicant with sufficient information about what action was taken on the request for assistance and why.

The decision should explain the Town’s action completely, such as:

“The applicant is found eligible to receive assistance because the household income is less than the allowed expenses and therefore the household is in need, in accordance with section 5.1 of the municipal ordinance, and the applicant has completed the work requirement, pursuant to section 5.5 of the ordinance.”

or,

“The applicant is denied due to sufficient household income to meet his need for basic necessities pursuant to sections 4.5 and 6.7 of the municipal ordinance and state law. 22 M.R.S.A. § 4309.”

- **Amount of assistance.** The decision should state the amount of GA that was requested and state what assistance was actually granted or denied. For instance, an applicant might request \$350 for rent. If the applicant was granted \$300 because that is the maximum amount allowed, the decision should reflect why the total request was not granted.
- **Period of eligibility.** It is very important that every decision clearly indicates the period of eligibility for which the GA grant is being made. The period of eligibility, by law, can be for no longer than 30 days, but it may be for any period shorter than 30 days.

One reason for clearly indicating the period of eligibility is to make sure the applicant is aware of the duration of the grant and, therefore, when he or she should reapply. Another reason for noting the period of eligibility is to keep track of the amount of assistance granted during a specific period of time so that the point at which “emergency” assistance (i.e., assistance granted over and above the household’s deficit) must be granted can be easily established.

- **Conditions of future eligibility.** The purpose behind the two-step GA application process which generally provides a “need only” test of eligibility for first time applicants, and allows the imposition of other eligibility conditions (such as the work requirement) for future applications, is to give people the “benefit of doubt” the *first* time they apply but to expect them to know the eligibility requirements for subsequent applications.

The only way this process will work is if recipients *know* what those eligibility requirements are. Therefore it is essential that the decision inform recipients what they will have to do to receive assistance upon subsequent applications. MMA provides a brochure that explains applicants’ rights and responsibilities.

Able-bodied, non-working recipients must be told that they must:

- register for work with the Maine Job Service;
- look for work;
- accept a job offer;
- not quit work, if and when employed, and not be discharged from employment for misconduct.

In addition, the decision should inform recipients that they *must apply for any resource that would assist them*, and specify what those resources are (food supplement benefit, TANF, fuel assistance, unemployment compensation, etc.). They should be instructed to seek assistance from legally liable relatives (parents, spouses) and should be informed that those liable relatives may be billed for any assistance granted to the applicants.

If recipients have any assets the administrator expects them to sell or use as collateral, this also must be included in the decision, along with the reasonable time frame in which to liquidate the asset or apply for a loan against significant collateral.

All applicants should be informed of the lump sum proration process and what their specific responsibilities will be if they receive a lump sum payment. (*see “Lump Sum Income,” in Chapter 2*).

The applicants should be told that any income they receive must be used for basic necessities and if it is not it may result in the household being ineligible or receiving a

reduced amount of assistance. Further, the recipient should be reminded about the penalties for committing fraud in Chapter 3.

In short, *the decision should state **any and all** conditions the administrator expects the recipient to fulfill.* If the recipient *doesn't know* that she could apply for fuel assistance or that she was expected to sell her wood lot, she won't do it and can't be disqualified for not complying with directions to use available resources.

Finally, the written decision should also include any use-of-income guidelines the administrator thinks appropriate to impose in accordance with the use-of-income policy adopted by the town (see "Use-of-Income Guidelines," in Chapter 2).

These guidelines may consist of a preprinted notice that explains how recipients are expected to spend their income, or the use-of-income requirements may be specifically stated on the decision issued to the recipient, or both. For example, the notice issued to all applicants may generally explain that the municipality considers any rent or mortgage obligation to be the recipient's responsibility. In addition, on a particular recipient's decision form the administrator might write, "You are also expected to apply \$250 of the TANF check you will be receiving next week toward your rent, and the next time you apply you must bring a rent receipt showing that this was done."

Administrators should remember that any generally applicable use-of-income policy adopted by the municipality *must be issued to **all** applicants.*

- **Right to complain to DHHS.** The decision must give notice that people have the right to complain about the decision to the Department of Health and Human Services if they believe the municipality has violated state law. DHHS has a toll-free telephone number for this purpose and that number must be on the decision (1-800-442-6003). A law enacted in 1990 also requires that this telephone number be posted.
- **Right to appeal.** The decision must inform people that they have the right to challenge the decision at a fair hearing and inform them of the process for obtaining a fair hearing (*see "Fair Hearings," Chapter 10*).

It is important that all this information be included in the written decision. It is also important that the administrator take the time to explain to the applicant the eligibility requirements and the right to appeal the decision.

Summary

Applicants must be given a *written decision* ***each*** time they apply. The decision must be given *within 24 hours of receiving an application*. It must be given whether assistance is granted or denied and it must state the reasons for the decision. *If assistance is granted it must be furnished within the 24 hour period*. The decision *must inform the applicants that if dissatisfied they may appeal* the decision to a Fair Hearing Authority, and if they believe that the administrator violated state law they can *complain to the Department of Health and Human Services*. The decision must also explain ***what conditions*** must be met to receive assistance in the future.

CHAPTER 10 – Fair Hearings

People who disagree with the GA administrator's decision, act, failure to act, or delay, concerning their request for general assistance have the right to appeal the action to a Fair Hearing Authority (FHA). In order to utilize that right, however, applicants must act in a timely manner.

They must request a fair hearing in writing within **five working days** of receiving a written notice of denial, reduction, or termination of assistance, or within **ten working days** of any other act or failure to act by the administrator. If the time period elapses and the applicant hasn't requested a fair hearing, he/she loses the chance to appeal that decision. The person's only recourse is to reapply for assistance.

For instance, Judy Cutler applied for GA. She was denied in writing because she had not fulfilled her workfare assignment and was therefore disqualified. She requested a hearing two weeks after receiving the decision. Her right to request a hearing lapsed because she had received a written notice and the five working days she had to request an appeal had passed. The administrator told her he could not schedule a hearing but he could take another application from her.

Keep in mind that the administrator **cannot** terminate or reduce an applicant's grant of assistance once the grant has been made prior to the applicant being allowed to appeal the decision.

For example, Eldon Cote was granted assistance. Two weeks later the administrator found out that Eldon had been working but had not reported it. The administrator notified Eldon that he had been granted more GA than he was entitled to receive, that he must repay \$100 for the assistance he received and that he would be ineligible to receive GA for 120 days (as of the date the fraud was discovered) because of the fraud. The notice also informed Eldon that he had the right to appeal the decision. Eldon did not appeal instead he made arrangements to repay the assistance he had not been eligible to receive.

The administrator should provide a form for people to request a fair hearing. The form should state the person's name and address, why he or she wants a fair hearing, and what assistance the applicant believes himself or herself to be entitled to. The administrator should never try to dissuade an applicant from requesting a fair hearing. Certainly the administrator can discuss any questions the person has, but if the applicant insists on having a hearing, the administrator must schedule one.

When to Hold a Hearing

The administrator must schedule a fair hearing and it must be held within *five working days* of when the administrator receives a written request from a dissatisfied applicant. In scheduling the hearing, the administrator should attempt to hold it at a time that is mutually convenient for the Fair Hearing Authority and the applicant. If the applicant wants an extension of time because there hasn't been time to prepare the case or due to other good cause, he or she can ask the administrator to exceed the five working days. If the administrator does schedule the hearing after the statutory time period, the administrator should have the applicant make a written request explaining why he/she needs the extension. After people (claimants) request a hearing they must be given written notice of when and where the hearing will take place. Claimants should be informed that they have the right to present witnesses and evidence on their behalf, question witnesses against them, and be represented by legal counsel or other representatives.

Unlike most municipal proceedings, the fair hearing is closed to the public; it can only be open to the public at the claimant's request. Therefore anyone who does not have any official role in the hearing is not allowed to attend. The Fair Hearing Authority, the claimant, his/her legal representative and witnesses, the GA administrator and the Town's attorney and witnesses, and a person to record the hearing are the only people who should be present. The claimant can bring family members or friends for support. Select persons, councilors or other municipal employees who are not overseers or who did not have any role in the decision or who are not Fair Hearing Authority members are not allowed to attend unless they are witnesses.

Fair Hearing Authority

The Fair Hearing Authority can be one or more municipal officers; the board of appeals, if specifically delegated the responsibility; or one or more persons appointed by the municipal officers to act as the Fair Hearing Authority. In no case may the Fair Hearing Authority include any person who was responsible in any way for the decision, act, failure to act, or delay in action relating to the claimant.

Conduct of the Fair Hearing—Decision

The hearing is informal in that it is not necessary to adhere strictly to the rules of evidence required by a court of law. However, the FHA should keep uppermost in its thoughts that the purpose of the hearing is to hear both sides in the case, evaluate all the facts objectively, and reach a decision based solely on the information presented at the hearing, pursuant to the requirements of state law and municipal ordinance.

The FHA must give the claimant a written decision within *five working days* after the hearing. The FHA must state specific reasons for its decision and specify what section(s) of

state or municipal law it used in making its decision. If the claimant is aggrieved by the Fair Hearing Authority's decision, he or she has the right to appeal the decision to the Superior Court within 30 days. The right to appeal the decision must be explained to the claimant in the written decision. From the Superior Court decision, there is an appeal route to the Maine Supreme Court.

Record

The municipality must make a taped record of the fair hearing. Claimants are responsible for the costs of providing a transcript if they decide to appeal the Fair Hearing Authority's decision to Superior Court.

The Department of Health and Human Services

Role

In 1983 when the Legislature enacted a major revision of the GA law it also increased the role of the Department of Health and Human Services (DHHS) in the administration of GA. It expanded the state's involvement from merely *monitoring* all GA programs to *supervising* GA. The Legislature also gave DHHS the authority to grant assistance directly to applicants in emergencies if the applicants were denied assistance due to a municipality's "failure to comply" with GA law. 22 M.R.S.A. § 4323.

Prior to 1983 the law stated:

"The department shall offer assistance to municipalities in complying with this chapter. The department may review the administration of the general assistance program of any municipality whether or not reimbursement is given. This review shall include a discussion with and, if necessary, recommendations to the administrator of the general assistance program as to the requirements of this chapter."

In practice, the DHHS reviewed the GA programs in only those municipalities which received state reimbursement. Since less than 25% of the state's nearly 500 municipalities received any state reimbursement, the DHHS did not have a very visible role in GA. And although the state Attorney General was empowered to prosecute any municipality that administered its GA program contrary to state law, this power was rarely invoked. The DHHS role has changed now that all municipalities are eligible to receive at least 50% state reimbursement for GA expenditures (*see "Reimbursement," in Chapter 10*). (*Refer to Appendix 18 for information on the DHHS "Review Process for General Assistance" in addition to relevant DHHS forms*).

Review

The state's laissez-faire attitude changed drastically in 1983 when the Legislature mandated that the DHHS be responsible for the proper administration of GA and assist municipalities in complying with the state law (§ 4323). In 1993, the DHHS role was slightly relaxed with a removal of a DHHS obligation to review all municipal ordinances for legal compliance. At the present time, GA law instructs DHHS to review each municipality's GA program (known as an "audit"). This requires DHHS to visit each municipality regularly, as well as in response to requests or complaints, and to inspect the GA records to determine if the program is administered according to the law. The DHHS representative must discuss the results of the review with the administrator and report his or her findings in writing to the municipality. The written notice must inform the municipality if the program is in compliance or, if it is not, how to comply. The administrator or his or her designee must be available during the department's review and cooperate in providing necessary information. It is important that someone (preferably the administrator) be there in order to answer any questions which may arise during the course of the DHHS audit.

Violations

If, after conducting a review, DHHS determines that a municipality's GA program is being administered improperly, it must notify the municipality. The written notice will alert the municipality of the violations and how to correct them. The municipality has *30 days* to correct the violations and file a plan with DHHS describing what steps it will take to comply with the law. The DHHS will notify the municipality if the plan of correction is acceptable and that it will review the municipality's program again within 60 days of accepting the plan.

Penalty

If a municipality doesn't file an acceptable plan or if it continues to operate its GA program in violation of state law, the state can stop reimbursing the municipality for its GA expenses until it does comply. Further, the municipality can be fined by a court of law *not less than \$500 a month* for each month it continues to administer its GA program improperly. 22 M.R.S.A. § 4323(2).

Complaints & Direct Assistance

In addition to the annual or regular program reviews by DHHS, the Department also fields any complaints from GA applicants who feel the municipality did not respond to the applicant's request for GA in accordance with state law. For that purpose, DHHS has a toll-free complaint "hot line" (1-800-442-6003). This "hot line" telephone number has to be posted on the notice of the municipality's General Assistance Program *and* included as a part of all written decisions applicants are given. Typically, the DHHS personnel on the "hot

line” will take the complaint over the phone and attempt to discern whether the municipal administrator responded to the application correctly. This sometimes requires calls back and forth between the DHHS and the town, DHHS and the applicant, DHHS and the town, and so forth, as the Department attempts to get all sides to the story. Almost all complaints are resolved in this manner, but the Department has the authority to intervene when it appears to DHHS that the applicant did not receive a proper decision from the town and the applicant is in immediate need.

The law governing the state’s right to intervene in a GA decision is found in § 4323(3). There it is found that under certain circumstances the state does not have to withhold reimbursement, conduct an in-depth review or impose a fine in order to rectify a problem. In some cases DHHS can act immediately and grant assistance to applicants. The DHHS is empowered to grant assistance directly to applicants who need assistance immediately (i.e., emergency GA) *if the applicant has not received assistance as a result of the municipality’s failure to comply with the requirements of the state’s GA law.*

If DHHS grants assistance directly, the municipality will be billed not only for the assistance but also for the state’s administrative costs connected with that grant of assistance. No municipality, however, may be held responsible for reimbursing the DHHS if the Department failed to intervene within 24 hours of receiving the request to intervene or if the DHHS failed to make a good faith effort to notify the municipality of the DHHS action prior to the intervention.

If the DHHS does intervene in a timely manner and with prior notice and the municipality is billed and fails to pay the bill within 30 days, DHHS is authorized to recover its money by simply withholding that amount from a future reimbursement due the municipality. If that wasn’t practical for some reason, DHHS could forward the bill to the State Treasurer for payment. The Treasurer would then reduce the town’s State Municipal Revenue Sharing, education subsidy, or other funds owed to the municipality.

The law governing DHHS intervention requires the department to make a “good faith” effort to contact the GA administrator to verify complaints it receives prior to granting assistance directly. If DHHS cannot reach the administrator or if DHHS cannot resolve the complaint with the municipality and if it is satisfied that an emergency exists, DHHS will grant assistance directly to the applicant. In effect, this section of the state law provides for a limited state “take-over” of the GA program.

Maximum Levels of Assistance

There is one other specific type of complaint that the Department is authorized to investigate, and that is the specific maximum levels of assistance for the various basic needs

as developed by municipalities as part of their ordinance. Although the DHHS obligation to review all municipal ordinances for legal compliance was removed as of July 1, 1993, a DHHS authority to review, upon complaint, the specific maximum levels of assistance was retained.

Written Notice

Whenever complaints are made against a municipality, the DHHS must give written notice to the person making the complaint and the municipality explaining why it did or did not intervene in the case.

Appeals

If a person making a complaint or a municipality disagrees with the DHHS decision regarding a request to intervene, either party can appeal the decision to a state hearing officer. If a municipality wishes to request a hearing it must request the hearing in writing within 30 days of being notified that the DHHS has granted direct assistance. An impartial person must hold this hearing. If the municipality disagrees with the hearing officer's decision, it can appeal the decision to the Superior Court pursuant to Rule 80C of the Maine Rules of Civil Procedure. 22 M.R.S.A. § 4323(4).

Just because DHHS threatens to intervene or actually intervenes, that doesn't mean that the DHHS is correct and is exercising its authority properly. The state, just as municipalities, can make mistakes. If a municipality is contacted by the DHHS and is told to grant assistance or be billed for it, the municipality should reevaluate the case. If it is an emergency (*a 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 the individual*), the municipality would be responsible for providing assistance if the applicant were eligible.

However, usually DHHS only hears one side of the story—either from the dissatisfied applicant or the applicant's legal representative. The GA administrator often has a better idea of the true situation than DHHS (if for no other reason than because he or she is on the scene and knows if there really is an emergency and there are no alternatives). If the DHHS grants assistance directly to a person despite the municipality's objections, the municipality should contact MMA or the municipal attorney to discuss the merits of the case and decide whether it would be worthwhile to appeal the decision.

DHHS Rules

The DHHS has promulgated rules which outline its procedures for fulfilling its responsibilities. These rules are known as the *Maine General Assistance Policy Manual*, and

may be obtained from the DHHS, General Assistance Unit, State House Station #11, Augusta, Maine 04333. (*Once obtained, municipalities should place the rules after tab 15 of this manual.*)

Reimbursement

The details of the system of state reimbursement for a portion of the GA benefits that are issued are described more fully below, but it should be noted at the outset that the GA reimbursement formula underwent a dramatic change in 1993. For ten years the reimbursement formula was based on a municipal “obligation” level that was a fixed .0003 times the municipality’s 1981 state valuation. As of July 1, 1993, the municipal “obligation” was modified to become .0003 times the municipality’s most recent state valuation. The concept of the municipal “obligation” and the manner in which the municipal “obligation” affects a particular municipality’s reimbursement is described in more detail below, but the general impact of this change in the law is to significantly increase many municipalities’ financial exposure to the GA program by reducing the amount of state reimbursement that was formerly provided some of the towns and cities in Maine that are experiencing the greatest demand for GA.

GA law requires the state to reimburse municipalities for a portion of their GA expenses. The amount of reimbursement is based on two formulas found in § 4311, as those formulas are applied to the municipality’s “net general assistance cost.” The “net” GA cost is defined in § 4301(11) as the direct costs of assistance not including associated administrative costs. There is room for confusion on this issue because one of the reimbursement formulas is called “reimbursement for administrative expenses.” Despite that title, the state does not reimburse municipalities for administrative costs.

The first reimbursement formula applies to every municipality whose net GA costs in a given fiscal year (from July 1 through June 30) exceed .0003 of the municipality’s most recent state valuation. That figure—.0003 of the municipality’s most recent state valuation—is called the municipality’s “obligation.” When the “obligation” is exceeded, the state reimburses 90% of the municipality’s net expenses over that level. For instance, if .0003 of Lewiston’s 2014 state valuation is \$586,925, once Lewiston issues \$586,925 in GA during the fiscal year ending June 30, 2014, it is eligible to be reimbursed 90% for any GA expenditures over that amount.

The second reimbursement formula became effective on July 1, 1989 and applies to every municipality *in addition* to the 90% formula. The second formula is either 50% of all net GA below the municipal obligation or 10% of the entire net GA cost. For any given (state) fiscal year, municipalities are free to choose which version of the second reimbursement formula they wish the DHHS to apply. For almost all municipalities, 50% of the under-

obligation figure is greater than 10% of the net GA figure, and the 50% formula would be the most advantageous (second example below). For a few municipalities, however, 10% of their entire GA expenditure is greater than 50% of their obligation, and those municipalities would choose the 10% formula (first example below). As discussed above, regardless of which “administrative” reimbursement formula is used, the 90% over-obligation formula still applies.

Example: For FY 2014, let us assume the town of Mars Hill will issue \$60,000 in net GA. Mars Hill’s 2014 state valuation is \$37,000,000, so the town’s obligation level is \$11,100. Therefore, Mars Hill will be eligible for 90% of its spending over \$11,100, or \$44,010 [90% of (\$60,000 - \$11,110)]. In addition, Mars Hill could either receive 50% of its obligation, or \$5,550 or 10% of its net GA spending of \$60,000, or \$6,000. In this case, the 10% option would be in Mars Hill’s best interest. A short-cut method to determine if your municipality should opt for the 10%-of-net formula is to evaluate if your GA expenditure is at or above 5x (times) your obligation. If so, the 10%-of-net formula will provide more reimbursement than the 50%-of-obligation formula.

Example: Assume, for the purpose of this example, that the Town of Anson issues \$65,000 in GA during FY 2014. The town’s obligation level is .0003 times the most recent state valuation of \$80,650,000, or \$24,195. Anson will be eligible to receive, therefore, 90% of its “over-obligation” spending, or \$40,805 [90% of (\$65,000 - \$24,195)]. In addition, Anson is eligible to receive either 50% of its obligation (\$12,097.50) or 10% of the entire net expenditure (\$6,500). It is to Anson’s advantage, obviously, to choose the 50%-of-obligation reimbursement.

Example: Based on historical spending levels, the Town of Mt. Vernon will probably issue about \$10,000 in GA during FY 2014. The town’s obligation (.0003 times the most recent state valuation) is \$27,300. Mt. Vernon, therefore, will not be eligible for any 90% reimbursement. Because Mt. Vernon’s spending will not come close to exceeding its obligation, the most Mt. Vernon will get in the way of reimbursement is 50% of the net GA issued, or approximately \$5,000.

There are a few other criteria that must be applied before a municipality is reimbursed by the state. First, the municipality must be administering its program in accordance with state law. Second, the state will not reimburse municipalities for assistance granted out of locally established charity trust funds unless there are no limits on the use of the trust proceeds by terms of the trust agreement itself, and the trust proceeds are issued in complete conformance with GA law and regulation. Finally, the municipality must file periodic reports and claims for reimbursement with DHHS. It is important to note that municipalities do not have to reach their “obligation” in order to submit for DHHS reimbursement.

Reports

All municipalities must file reports with DHHS that detail their GA expenditures. The reimbursement claim forms are provided by DHHS. Municipalities which have received “90%” reimbursement in the past or which anticipate that they will be spending over obligation must submit *monthly* reports. Municipalities that do not expect to be reimbursed at the “90%” level in the current fiscal year must submit either quarterly or semi-annual reports (§ 4311(2)(B)). Finally, if the municipality does not anticipate spending over its obligation, and is therefore submitting quarterly claims for reimbursement, but suddenly finds midway through the fiscal year that GA spending has surpassed the obligation threshold, the municipality must immediately begin filing monthly claims for reimbursement.

The state is not required to reimburse any municipality which does not submit the reports in a timely manner. If a report is not submitted within 90 days of the time period covered in the report, and there is no “good cause” for the late submission, the state is under no obligation to reimburse the municipality.

The current law creates an obligation level of .0003 times *the municipality’s most recent state valuation*; administrators must remember to adjust the obligation accordingly on the first claim forms that are submitted each fiscal year. DHHS sends municipalities notices regarding their “obligations” in March of every year. For example, a municipality that is submitting monthly claim forms must remember to calculate the correct obligation on the claim form filed each August covering GA issued during the month of July, the first month of a new fiscal year. That new obligation level will be the obligation to use on every claim form during that fiscal year. The particular state valuation for all municipalities is certified to the assessor(s) of the municipality no later than February 1 of each year, and municipal GA administrators should track that number down in a timely manner so that the upcoming year’s GA budget can be reasonably calculated and the determination can be made with regard to which reimbursement formula to choose.

Unincorporated Places

The DHHS appoints people to serve as GA administrators to handle the program in the unorganized territories. Often the state will contract with a nearby municipality to administer GA in the unorganized territory. When this occurs the state reimburses the municipality for 100% of its expenses related to providing assistance in the unorganized territories. However, if a municipality has not been designated to accept applications for residents of an unorganized territory and a resident of the territory applies for GA at the local town office, the GA administrator should contact DHHS to find out where the applicant should apply.

CHAPTER 11 – Questions & Answers

The following are some commonly asked questions about General Assistance, with answers supplied.

Application

- Q.** A couple with a three-year-old child applied for assistance in Monmouth. They are significantly over income, but they are out of food and they won't be paid for two days. This is their first application. Must Monmouth help?
- A.** Probably yes. Even though they are over income they have an immediate need (i.e., emergency) and no way to fulfill that need. Monmouth must assist them with enough GA for food until they are paid (two days). If this were a repeat application, the Monmouth administrator could apply any standards limiting emergency assistance that are established in the local ordinance, but for a first-time application, it would be more reasonable to grant the emergency GA and warn the applicants that they must document all future expenditures in order to preserve their eligibility for future assistance.
- Q.** A couple with a seven-year-old child applied for GA in Sabattus on Tuesday. Their income is \$1,500 a month. They are requesting assistance with their \$250 light bill since their electricity is going to be shut off on Monday, but they will receive a \$375 paycheck on Friday. This is an initial application. Must Sabattus pay?
- A.** No. The family is clearly over income and in no immediate need, since they will receive a paycheck on Friday that will be more than enough to pay the light bill and avert the disconnection of service.
- Q.** If an applicant applies for assistance and is eligible for several types of assistance but only requests food, is the administrator required to inform him that he could apply for other things? Does the law require the municipality to grant automatically the "gap" between income and allowed expenses?
- A.** There are at least two GA program requirements which serve as notice to applicants about what they are eligible to receive. First, the municipal ordinance must be readily available to all applicants. Second, the application process necessarily involves a comprehensive review of the applicant's basic-need budget—a review with the applicant that results in the determination of the applicant's unmet need. These two requirements act to provide applicants with the knowledge of their potential eligibility,

and there is no express legal obligation that an administrator apprise all applicants of their maximum eligibility. In other words, you have to help eligible applicants with *requested* assistance. If they do not request everything they are eligible for on a particular application you may certainly inform them of the full extent of their eligibility. But if you do not, be aware that they may reapply during the period of eligibility to receive the remaining assistance they are eligible for.

- Q.** There are several families in town who receive assistance every single month. In fact, they've received assistance every month for the past three years! I thought General Assistance was a temporary program for emergencies only. How much longer do we have to assist these families?
- A.** There is a conflict in the definition of GA. On the one hand it says that GA is 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." It further defines the program as one that 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" (§ 4301). This seems to say that people can receive assistance only for a limited time. However, the next sentence makes the previous one somewhat meaningless since it states: "This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that person has need and is found to be otherwise eligible to receive general assistance." So while GA is intended, in theory, to be a limited program, in practice and in law, it must be granted for as long as the applicant is eligible.
- Q.** Who is the proper person to apply for GA? Our ordinance requires that the "head of the household" applies. Sometimes there's a man in the household but he always sends his wife in. Do we have to take an application from her?
- A.** Anyone may apply for GA. The administrator should only be concerned that the person applying can provide all the necessary information that you need to determine whether the household is eligible. Depending on the household composition, only one adult could be required to apply. But if there are two adults, and either or both are required to do workfare or fulfill other eligibility conditions, it is reasonable to expect them both to apply at the same time.

Confidentiality

- Q.** An attorney for one of our recipients requested a copy of her GA file. Should I give it to the attorney?
- A.** You should release an applicant's or recipient's records only if you have a "consent form" signed by the applicant or recipient giving permission to the administrator to release the record. The law (§ 4306) only requires that the applicant give "express" permission prior to the release of confidential information to the general public. A Superior Court case has upheld a municipality's interpretation of "express" permission as written permission. *Janek v. Ives*, Aroostook County Superior Court, #CV-89-116 (1997). Even with the *Janek* decision, in the case where an attorney is requesting the record on behalf of a client, particularly when the claim is being made that an emergency exists, you could release the information to the attorney on the client's oral consent. In any other situation, a written release should be required.
- Q.** One day while *some* applicants were waiting to apply for GA, I overheard one of them tell another that he had committed a recent robbery at a nearby store. I know that information pertaining to GA applicants is supposed to be confidential, but I think I have an obligation to report this to the police and wonder if I may.
- A.** Yes. The GA *confidentiality* provisions require that information relating to GA applicants not be disclosed to the *general public*. In this case you would not be disclosing the kind of information specifically protected by the law (i.e., contents of the application, etc.). The police would not be considered the "public" in this instance. In order to completely ensure your protection against any claim involving a breach of confidentiality, it would be advisable to make sure that you are covered by the town's public officials liability insurance. In addition, whenever you go to the police with information about a client you should inform the police officer of your confidentiality responsibilities and you should ask that the police not use you as a witness unless all else fails. If you are called upon to testify in court, raise the confidentiality issue in court and let the judge decide.
- Q.** We are contemplating taking a former GA recipient to Small Claims Court to recover our expenses. He just received \$25,000 from the Lottery. Will that be a violation of his confidentiality?
- A.** You should write a letter to the recipient reminding him of his obligation to repay the municipality and ask him to voluntarily repay his obligation. Inform him that if he

doesn't contact you within a specific amount of time, the municipality will be forced to bring him to Small Claims Court. If it is necessary to bring the recipient to court to recover the debt, it is a good idea to inform the court of the confidentiality provision. It is recommended that the complainant inform the court, on the "statement of claim" form which will have to be filed, that the information contained in GA records is confidential by law pursuant to 22 M.R.S.A. § 4306. Let the court decide what information is to be released for the record and also how to administer the proceeding in order to effectuate confidentiality.

- Q.** Our town has several charitable organizations that give "care baskets" of food and clothing during the year. Can we release the names of our GA recipients to these groups so they can receive these baskets?
- A.** No. The identity of GA recipients is totally confidential to the general public. You could ask your recipients if they would like to receive a basket and, if so, get their permission to release their names to the charitable agencies.

Fair Hearings

- Q.** I know that fair hearings are "de novo" but I'm confused. Is the Fair Hearing Authority supposed to decide if the claimants were eligible at the time they *applied* or at the time of the fair hearing?
- A.** The job of the Fair Hearing Authority is to determine, based on all the evidence presented at the fair hearing, whether the claimants were eligible to receive assistance at the time they applied, and whether the administrator's decision was correct. Often a person's circumstances change between the day they apply and the time of the hearing. If this is the case, the Fair Hearing Authority could determine people were ineligible when they applied but suggest that they reapply for GA to have their eligibility re-determined in light of the changes in their circumstances that occurred after the date of the decision at appeal.
- Q.** An applicant requested a fair hearing. We scheduled it, he said he would be there, but he didn't show up. This was our first fair hearing and we didn't know what to do. What should we have done?
- A.** Under Maine law fair hearings are *de novo* which means that the hearing officer(s) determines the person's eligibility anew and not just on the basis of the administrator's reasons contained in the decision. Because the fair hearing must consider the claimant's

eligibility from a fresh perspective, the officer(s) has the right to question the claimant. If the claimant doesn't attend the hearing, the officer(s) is not able to ask questions.

In the situation you described, the Fair Hearing Authority should have convened the hearing, noted for the record whom were present, that the claimant didn't attend, and that there being no evidence or information to the contrary, the administrator's decision would stand and be unchanged. A letter to that effect should then be sent to the claimant (*see "Claimant's Failure to Appear" in the "Fair Hearing Authority's Reference Manual," Chapter 12*).

Fraud

- Q.** A man applied for GA in Belmont. He supplied a written statement from the landlord verifying that the applicant lived at that address. The administrator is sure that it is a forgery. Can she disqualify him for making a false representation?
- A.** This alone would not be a sufficient basis to disqualify an applicant. First of all, the administrator is not a handwriting expert so she should attempt to contact the landlord. Secondly, people can be disqualified for fraud only if the false statement relates to a *material fact*; that is, a fact which has a direct bearing on the applicant's eligibility. Whether an applicant's landlord is Mr. Smith or Mrs. Jones isn't necessarily material, provided there is a bona fide landlord. What is important is the location of the apartment (in order to determine the municipality of responsibility and the housing vendor), the amount of rent, and whether there are any other people in the household. The administrator needs more information before she can determine eligibility or be sure that this is a case of fraud.
- Q.** Two weeks ago I disqualified an applicant for 120 days for committing fraud. Now his wife and two-year-old child are applying for GA. The man now has a job but won't be paid for one week and they have no available cash. Am I supposed to help?
- A.** You are required to help the wife and child since they did not commit fraud and therefore were not disqualified. However, you are not required to help the husband whom you disqualified for 120 days. You should grant a one week food voucher for two people (the mother and child only) to cover their expenses until the paycheck arrives.

Housing

- Q.** A family of four was evicted. The sheriff came and padlocked their apartment. Now they are in the town office telling us that we must find them housing! Must we?
- A.** Generally speaking, the applicants are responsible for *finding* suitable housing; the municipality is responsible for *paying* for the housing to the extent the applicants are eligible. As is the case with almost everything in GA, however, it depends on the situation. If the applicants have no housing and it is an emergency because there are no alternatives, the municipality may have to place people in a motel temporarily. Rather than locate people in a motel, it might be wise for the municipality to help people find permanent housing.
- Q.** Two of the selectpersons refuse to grant assistance to couples who live together without being married because they say the town should not be supporting an immoral situation. I don't necessarily agree with the situation but don't think we can legally make these sort of judgments. Who's right?
- A.** If **applicants** are eligible for assistance based on *objective criteria* (income, expenses, assets, work requirements, etc.) then they must be granted assistance regardless of whether the administrators agree with the applicants' lifestyle.

Liability of Relatives

- Q.** Claudine and Martin are sister and brother. Martin lived in Claudine's house until she kicked him out after they had a fight. Now Martin is applying for GA. Must the town help? Can we require Claudine to help?
- A.** The town must grant Martin GA if he has insufficient income. The town cannot require Claudine to help or to reimburse the town, because as Martin's sister, she is not legally liable for his support. Certainly it makes sense to encourage relatives to help each other, but sisters and brothers are not required by law to help each other so municipalities cannot deny applicants if a brother or sister refuses to help.
- Q.** Our town has been helping a mother and her 13-year-old daughter for the past four months. The mother is separated from her husband who lives in the next town. He refuses to give them any support. We have sent him bills for the assistance we have given his wife and child, but to date he has ignored our bills. Can we require him to do workfare?

- A. No. The only people who can be assigned workfare are those who are able to work and who have actually received the assistance. Although the man is deriving some indirect benefit by the town giving GA to his wife and daughter, he is not actually receiving GA. The most you could do would be to sue him in Small Claims Court. Be aware that there is a 12-month limitation on your ability to recover GA funds from liable relatives in Small Claims Court. You might also contact the Support Enforcement Unit of the DHHS to see if they can assist in securing support payments from the husband.
- Q. An 18-year-old woman and her baby receiving TANF rent an apartment in the building her parents own. She has applied for GA to pay the rent. Aren't the parents responsible?
- A. Yes. Since she is not in any danger of eviction and has no immediate shelter need, you should deny her rental assistance and inform the daughter that under state law her parents are considered both legally liable and potential resources for her and her child's support. Be aware that the parents may be resentful and tell her to move out to a different apartment. You should make it clear that even if this happens, the parents continue to be legally liable for their daughter's support, at least until the daughter is 25 years of age.

Furthermore, § 4319 of Title 22 provides that a municipality may elect not to make rental payments to an applicant's immediate relatives, *regardless of the age of the applicant*, unless two conditions are met: First, the rental relationship must have existed for at least three months and the rental income to the parents must be necessary to provide the parents with their basic necessities.

Therefore, even if your client was not a minor and her parents had no legal liability to provide her with financial support, there would be no obligation to pay rent to the applicant's parents unless they were themselves in need of GA, and the rental relationship had been established for at least three months. Keep in mind that regardless of the applicant's age you would have to assist her with the basic necessities other than shelter if the parents refused to provide support and she was otherwise eligible. The parents' legal obligation to provide support cannot be construed as the minor having "no unmet need" when the parents, in fact, are unwilling or unable to provide the necessary support directly.

Maximum Levels

- Q. We have a family of four in our town who has applied each week for the past month. Both parents work but they never have enough money to pay for all their basic necessities. Their income exceeds the maximum levels that we allow in our ordinance

so we have denied them. Pine Tree Legal called today and said that we have to give them assistance in excess of what our ordinance allow. Is this true?

- A. Generally speaking this is not true. The maximum levels in your ordinance should be followed closely. The only exception to this would be if the applicants had an emergency that necessitated that the ordinance be exceeded. For instance, if they received an eviction notice, or if they used their income to repair the furnace and consequently didn't have enough money for food. Keep in mind that the maximum levels established in your ordinance for the specific basic necessities must be reasonable and reflect the cost of living in your community. If most of your applicants' rent payments, for instance, are always more than what the ordinance allows you should adjust your maximum levels. In this case, you should inform the applicants that if they wish to preserve their future eligibility for GA, they must carefully document all expenditures of household income. Any income not spent on basic necessities will not be replaced with GA funds.
- Q. We've been receiving a lot of requests for overdue electric bills and rent bills. These applicants could have applied for GA at the time they were having trouble paying their bills, but they have waited until the last minute. Does the law require that we bail them out now?
- A. Not necessarily. The first step in the process is to evaluate the eligibility of the household for non-emergency GA; that is, does the household have a deficit (i.e., a gap between the household income and the overall maximum level of assistance for that household allowed by law)? If so, try to determine if all the household's needs for the next 30 days—including any utility disconnection or eviction problem—can be met by disbursing GA up to the amount of the household's deficit. The household would be eligible for its deficit even if it were not facing an emergency situation, so if the household's regular basic needs and the emergency needs can both be addressed within the deficit, so much the better.

If the overdue light bill or rent bill has created an emergency situation which cannot be alleviated within the applicant's deficit, the next step is to determine if the applicant could have averted or avoided the emergency situation with his or her own finances and resources. If the applicant could have wholly or partially avoided the emergency, financially, but some of the applicant's income was spent on unnecessary goods or services, the municipality has no legal obligation to replace that misspent income. Consult the standards in your ordinance governing *limitations on emergency assistance*. Those standards are designed to implement

a policy that was woven into GA law in 1991. In simple terms, that policy is that no one is automatically eligible for either “regular” GA or emergency GA to replace income that could have been used for basic necessities.

Residency

- Q.** A man who used to live in Sidney moved into Belgrade. After he had been in Belgrade one week, he applied for food at the Belgrade town office. The administrator told him to apply to Sidney for help because he had been in Belgrade less than one month. Was the Belgrade Administrator correct?
- A.** No. The man moved to Belgrade *voluntarily* without any assistance from Sidney, therefore Sidney was not responsible for him. If Sidney had given the man GA to help him relocate to Belgrade, then Sidney would have been financially responsible for his GA until he had lived in Belgrade for 30 days.
- Q.** A woman is living in a shelter for victims of domestic violence which is located in Saco. Prior to entering the facility four months ago, she lived in Biddeford. She has found an apartment in Old Orchard Beach and needs the first month’s rent. Who is responsible?
- A.** Biddeford, because she is in a shelter, has been there less than six months, and Biddeford is where she lived immediately prior to entering the facility.
- Q.** Our town received a bill from Oxford because a family from our town moved to Oxford. The Oxford administrator gave the family a food voucher but now Oxford wants us to reimburse them. Do we have an obligation?
- A.** Your question turns on whether or not your town granted GA to this household within the last 30 days in order for the family to move to Oxford. If the family now applying to Oxford did not receive assistance from you to move to Oxford within the last 30 days, you have no obligation to reimburse Oxford for the GA it is now issuing to the family. If you did use GA to help the family move to Oxford, you would be responsible for any GA issued to that family, such as this food order, within the first 30 days of relocation. In an effort to avoid confusion, it is a good practice for a municipality which helps a family move to another municipality to notify the “receiving” municipality.

In another situation, let’s say that the family was applying in Town A, but was clearly not Town A’s responsibility because the family’s home was in Town B and they intended to

remain in Town B. They were simply unaware of where to apply and a friend of theirs had suggested they apply in Town A. In this case, *where there is no dispute regarding residency*, Town A should contact Town B to determine how to proceed.

As a result of that communication, the applicants could either be informed about when and where to apply to Town B, or Town B could give permission to Town A to grant the family necessary assistance this one time and send a bill to Town B for reimbursement. State law requires municipalities which assist people for whom they are not responsible to give prior notice to the municipality from whom they expect reimbursement (§ 4313). It is good practice for a town that helps a family move to another town to notify the “receiving” municipality. It is important for municipalities to cooperate with one another in administering GA.

Work Requirement

- Q.** A woman had been receiving GA regularly for about one year. She had been assigned to do workfare and she performed well. It has been three months since she last received GA. She still “owes” 24 hours worth of workfare. Must she complete this before we can give her more assistance?
- A.** No. It is not uncommon for a recipient to receive more GA than can be worked-off during their period of eligibility. Sometimes the reason for this is that the GA grant is so large there are simply not enough hours in the period of eligibility for the entire grant to be worked off. It is also sometimes the case that the municipality is unable to assign enough work to cover the entire GA grant because of the time of the year or the lack of supervision. It is the responsibility of the municipality to create the work assignment during the period of eligibility for which the applicant received the GA. Generally, the municipality cannot fail to assign the workfare in a timely manner and instead “bank” the workfare hours for sometime in the distant future. The exception to this general rule is when it is the recipient, not the municipality, who fails to perform the workfare assigned without just cause. In this circumstance, the number of hours that were assigned and not worked by the recipient should be identified and the recipient should be disqualified until the total number of assigned workfare hours are made up.
- Q.** Our town has a GA recipient who applies for assistance and agrees to do workfare. We give him a month’s rent and then he never shows up for work so we disqualify him for 120 days. But, like clockwork, he’s back in on the 121st day to reapply. This has happened a couple of times now. He currently owes us about 250 hours in workfare. Can we disqualify him until he works his hours? What can we do?

- A. Maine law permits municipalities to disqualify people for 120 days if they do not comply with the **workfare** requirement. This 120-day period of ineligibility, if applied to an applicant, should be viewed as the penalty for not performing the workfare assignment, and when the applicant reapplies for GA after the ineligibility period has expired, the administrator would be well advised to start off again with a clean workfare slate.

When you are dealing with GA recipients who have poor workfare records, it would be very reasonable to employ the “workfare first” option that was authorized by a change to GA law in 1993. Under the “workfare first” policy, this recipient would now be granted assistance *on the condition of a successful completion of the workfare assignment*. If he decides not to do the workfare, the GA grant would be terminated before it was actually issued.

Another approach you might take with a recipient such as this, who has a poor workfare record, would be to change the duration of time for which you grant assistance. For instance, you can reduce the period of eligibility by granting help with food one day at a time. For every day he works, you’ll grant him one day’s worth of food. If you’ve been granting rental assistance monthly you might want to consider granting it on a weekly basis. In this way, there is an incentive for the recipient to perform workfare and if he fails to comply, the municipality will have saved some money.

Q. The workers at the major employer in our town just went on strike. Do we have to grant assistance to strikers?

- A. The first time striking workers apply for assistance their eligibility must be determined the same as any other first time applicant. If they are in need, and are eligible, they must be assisted. Thereafter, strikers must fulfill the same eligibility conditions as other recipients. They must comply with the work requirements and they must use all available resources to reduce their need for GA. The fact that the striker has a job to return to, but chooses not to due to the strike, should be interpreted, as the striker’s failure to utilize an available resource. The striker should be given a written notice providing him or her with 7 days to secure the resource (i.e., return to work) or, commence a work search for new full-time employment.

If the striker decides not to cross the picket line (i.e., does not utilize the available resource) he or she should be found ineligible until the time the resource is utilized. If on the other hand the striker fulfills the work search requirement, they should be deemed eligible provided the other eligibility criteria are met.

If strikers say they cannot fulfill the work requirements (i.e., look for work, perform workfare) because they have to be on the picket line, the administrator should explain that they will have to either arrange their picket line schedule around their work search and/or workfare assignments or be found ineligible. If a striker refuses to comply with any work requirement, the striker should be found ineligible to receive GA.

If strikers have assets that can be converted into cash (extra cars, recreational vehicles, insurance policies, retirement funds etc.), they are required to make a good faith attempt to liquidate or sell the assets at fair market value. Failure to do so will result in their ineligibility. As an aside, most strikers will have “pension plans” of one kind or another, which they should be made to access since retirement accounts are “available resources.” As a result, they will most likely be found over income upon their second application.

Remember, if a striker is found ineligible for failure to comply with the program rules or requirements, his or her family may still be eligible.

***NOTE:** The Department of Health and Human Services (DHHS) does not share this opinion. DHHS advises that municipalities treat strikers as applicants who are ineligible for 120 days due to a “job quit.” However, MMA takes the position that striking is not analogous to job quit and as a result a denial of GA on such grounds could be challenged. A more defensible position is one of treating a striker as an applicant who must take advantage of an available resource (just as any other applicant would be made to do). Regrettably, since there is a split in opinion, municipalities must choose a position and apply it consistently to all strikers in their municipality.*

- Q.** Craig has been receiving GA for months. He is in his mid-twenties and able-bodied. Although he always agrees to do workfare, he never shows up when assigned and is disqualified for 120 days. He knows he can re-qualify for assistance if he “otherwise complies” with the law so very often he’ll come in the office late Friday afternoon saying he is willing to do his workfare assignment. Our public works crews are usually done for the day and therefore we don’t have any work for him to do. He and his attorney say that’s our problem and that if he’s willing to work we have to grant him assistance. Do we have to drop everything and cater to his demands?
- A.** Certainly this behavior is neither reasonable nor responsible, and the law governing an applicant’s right to regain eligibility after failing (without just cause) to adequately perform a workfare assignment was amended in 1991 to address this issue.

The law (§ 4316-A(4)) requires a municipality to limit the number of opportunities a person must be given to regain eligibility after a workfare disqualification. As a matter of law, a workfare participant who has been disqualified for a workfare failure is entitled to only one opportunity to regain eligibility. The way to take advantage of the law is to be very clear with your paperwork.

As soon as a workfare participant fails to perform an assignment and there is no “just cause” reason for that failure, a written notice should be immediately issued to the participant disqualifying him or her for 120 days. Upon receiving such a notice, the workfare participant could either appeal the decision or attempt to regain eligibility. If the workfare participant wanted to regain eligibility, he or she would have to contact the administrator and request a workfare assignment. If such a request is made, the administrator must grant the participant *one single new workfare assignment* if the administrator wishes to enforce the ineligibility period.

Generally, it is only if (and when) the participant adequately performs the new assignment that his or her eligibility for any GA will be reinstated. *(An exception to this would be if the town did not have any work assignments immediately available. If an applicant had to wait a week for an opportunity to regain eligibility and was out of food in the meantime, the administrator should grant an emergency food order, as a matter of good faith, to cover that period of time.)* If the participant does not adequately perform the workfare re-assignment and there is no just cause for that failure, the original 120-day ineligibility period could be enforced by the administrator for its original duration.

Miscellaneous

- Q.** We have a landlord in our town who rents primarily to GA recipients. He has not paid taxes on several of his apartment buildings. When the town grants rental payments for his tenants, can the town keep the money and put it toward the unpaid taxes the landlord owes?
- A.** No. The tenants are eligible to receive the GA for their rent and should not be used as pawns to help the town receive payment of delinquent taxes. Some municipalities refer to a section of taxation law found in 36 M.R.S.A. § 905 for authority to implement the “set off” procedure which you are describing. That law allows the municipal treasurer to “withhold payment of any money then due and payable (by the municipality) to any taxpayer whose taxes are due and wholly or partially unpaid... The sum withheld shall be paid to the tax collector...” It is the opinion of the attorneys in MMA’s Legal Services Department that GA rental payments may not be set off because the

municipality is merely paying the rent on behalf of the tenant, and the legal obligation to pay that rent continues to rest solely with the tenant. To “set off” GA rental payments against unpaid taxes could negatively affect the tenant.

- Q.** We routinely refer all new applicants to the police for investigation to see if they have a criminal record and to make sure that they are telling the truth. Is this proper?
- A.** No. The police have no role in the regular administration of general assistance. If the administrator has a good reason to suspect fraud regarding an application, the police may be brought in to help investigate, but the police should not be used in the routine administration of GA.
- Q.** We have over drafted our GA budget and it will be four months before our next regular town meeting. Do we have to have a special town meeting to appropriate the money necessary to cover our GA account?
- A.** It is not necessary to schedule a special town meeting just for the purpose of covering a GA overdraft. The appropriation to cover a GA overdraft, however, should be considered at the next available town meeting opportunity. GA overdrafts are different from overdrafts of other accounts because the municipality is not at liberty to control the GA budget. With regard to nearly every other financial account, when the municipal officers authorize overdrafts, they could be held personally responsible for that municipal debt if the legislative body does not subsequently ratify the overdraft by appropriating the funds necessary to cover it. This is not the case with GA overdrafts.

The municipal official could not be held personally responsible for a GA overdraft because the program is mandated by state law and regulation and the municipal officers have no authority to control GA expenditure. When a town meeting municipality overdrafts its GA budget, the municipal officers should make sure that the necessary appropriation is placed on the warrant for the next available town meeting, but it is not necessary to schedule a special town meeting only for that purpose.

- Q.** We recently received a food voucher that was being redeemed by a local grocery store. Along with our voucher was a copy of the receipt. When our treasurer was preparing the check for the grocery store, she subtracted from the total purchase price the amount of sales tax included. The grocery store said we shouldn't subtract the sales tax and referred us to the state Department of Taxation. We have always understood municipalities to be exempt from the sales tax. Who is right?

- A:** Municipalities are exempt from paying sales tax. In this case, however, and as odd as it might sound, the municipality is not really purchasing the food. The municipality is providing a form of public assistance to an eligible recipient, and it is the recipient who is making the food purchase. Tax-exempt status, generally, is not derivative; that is, it cannot be transferred to third parties who are not themselves tax-exempt. Therefore, your treasurer should be honoring the food voucher up to its face value regardless of the sales tax applied.

One way to avoid paying the sales tax for taxable food items would be to implement a policy that would allow the purchase of only non-taxable food items with municipal food vouchers. The principal advantages of such a policy would be to increase the buying power of the food voucher and also ensure in a convenient way that “snack” foods, which are presently taxed under Maine law, would not be purchased with GA vouchers. The disadvantage of such a policy is that what are and what are not taxable food items will not always be clear to the recipient when he or she is in the grocery store and, as a result, confusion and embarrassment may reign at the checkout counter. For that reason, if a town does intend to implement a policy allowing only non-taxable food items, all recipients should be given a list of taxable and non-taxable food items. Area supermarkets, probably, can provide such a list.

- Q:** We recently received the model MMA General Assistance ordinance and have several questions about what to do with it. Can you tell us how to adopt the ordinance and whether there are any other things we should be aware of?

- A:** Maine law is not very specific about the procedure for adopting a General Assistance (GA) ordinance. Title 22 M.R.S.A. § 4305(1) merely requires that municipalities administer a GA program “in accordance with an ordinance enacted after notice and hearing by the municipal officers.” Assuming that your municipality doesn’t have a local charter provision providing a different process for adopting an ordinance, the procedure we suggest is one that is very similar to that used for adopting a traffic ordinance. 30-A M.R.S.A. § 3009. We suggest the following format:

1. The municipal officers must post notice at least seven days prior to the time of the meeting at which the GA ordinance is to be considered for adoption and that notice must be posted in the same place as the town meeting warrant (*See Appendix 1 for sample “Notice.”*) If your town customarily posts in two or more places, the same number of postings would apply to these notices. Although not required, a newspaper ad or announcement may be appropriate.

2. Notice must give the date, the time, and the place of the municipal officers' meeting and public hearing.
3. The notice must either have the proposed ordinance and/or amendments attached or inform people where they may review the ordinance.

At the time of the meeting the municipal officers should place the ordinance before the meeting for general discussion, and by way of a statement, explain the need for the ordinance. After that, the public hearing should be opened in order to give people the right to ask questions and engage in general discussion concerning the ordinance itself. After people have had an opportunity to express their views, the municipal officers should close the public hearing and proceed with the consideration of the ordinance.

The enactment is not difficult. It may be accomplished by a motion made by one of the municipal officers, seconded by another, and voted upon by majority vote. Because there must be a record of the action, it is suggested that the town clerk be present, record the motion, record the second, and poll and record the individual votes of the municipal officers. The minutes of the town clerk plus a certified copy of the ordinance enacted should be recorded in the town's records in the same manner as an action by a town meeting.

Once the ordinance is adopted, a signed copy (or notice thereof) must be filed with the Department of Health and Human Services, Bureau of Family Independence, State House Station #11, Augusta, 04333. Municipalities are also required to file any amendments to the GA ordinance and any GA forms they use (applications, budget sheets, decisions, etc.) each time there are changes. ***Don't forget to adopt by October 1st (of each year) the new Appendixes A-C*** containing the yearly GA maximums, which MMA sends to all municipalities. DHHS must also receive confirmation that the municipality has adopted the appropriate maximums each year.

Finally, it is a good idea to appoint a Fair Hearing Authority (FHA) at the time you adopt a GA ordinance and clarify your ordinance regarding the composition of the FHA. Municipalities are required to appoint a FHA to hear appeals from dissatisfied applicants, and your ordinance should be amended to clarify whether the municipal officers, a board of citizens, or an individual will serve as FHA.

Q: I have a client who repeatedly refuses to provide her Social Security number and those of her family members. I would like to use the numbers for verification of both income and public benefits. Can I require her to provide the numbers?

A: Yes. It is the opinion of MMA legal staff that under the General Assistance statutes (22 M.R.S.A. § § 4301 et seq.) and the body of law known as municipal “Home Rule” authority found at 30-A M.R.S.A. § § 3001, municipal GA ordinances can require that GA applicants provide their Social Security numbers for purposes of GA administration. Home Rule authority provides municipalities the right to enact ordinances (municipal in nature) that do not frustrate or run counter to a state law and/or which the state has not prohibited the municipality from passing.

Section 4305 of our general assistance statutes requires the following:

1. Program required; ordinance. A general assistance program shall be operated by each municipality and shall be **administered in accordance with an ordinance enacted**, after notice and hearing, by the municipal officers of each municipality. (Emphasis added)

and

2. Standards of eligibility. Municipalities **may establish standards of eligibility**, in addition to need, as provided in this chapter. Each ordinance shall establish standards which shall:
 - A. Govern the determination of eligibility of persons applying for relief and the amount of assistance to be provided to eligible persons; (Emphasis added)

By virtue of § 4305, it is difficult to argue that a municipality’s authority, vis-à-vis its GA ordinance, is not sufficiently “broad” to require that GA applicants provide their Social Security numbers. Furthermore Section 4.3 of the MMA model GA ordinance (re: Contents of the Application) clearly requires that:

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

1. applicant’s name, address, date of birth, **Social Security number**, and phone number;
2. names, date(s) of birth, and **Social Security number(s)** of other household members for whom the applicant is seeking assistance;
3. total number of individuals in the building or apartment where the applicant is residing;
4. employment and employability information;
5. all household income, resources, assets, and property;

6. household expenses;
7. types of assistance being requested;
8. penalty for false representation;
9. applicant's permission to verify information;
10. signature of applicant and date.

As a result of a municipality's Home Rule authority in this area and, the very clear requirements (eligibility criteria) established by our MMA model GA ordinance (which not only do not frustrate the purpose of the GA law but are clearly "in sync" with § 4305), it is our opinion that municipalities having adopted the MMA model may require GA applicants to provide their Social Security numbers.

However, in the event the applicant is a "first time" applicant who has lost his or her number for example, or the applicant provides other evidence evincing "just cause" for the failure to provide the number, the municipality should provide the applicant the opportunity to obtain the Social Security number. The municipality in such a case should provide the applicant a seven-day written notice of the requirement (i.e., on the notice of eligibility or ineligibility) and instruct the applicant that he or she will be required to provide the number (or proof of a "good faith" effort to secure the number) next time they apply for GA. Furthermore, if the applicant has an immediate "emergency" need and they are otherwise eligible, the applicant should be provided sufficient GA to take care of any immediate need. If on the other hand a repeat applicant, who has been properly instructed to provide the number upon his or her next application, refuses without a legitimate reason to provide the number, he or she should be found ineligible for failure to provide the GA administrator with information necessary to verify eligibility. 22 M.R.S.A. § 4309 (1-B).

NOTE: *The Department of Health and Human Services (DHHS) does not share this opinion. DHHS advises that municipalities may not deny benefits to individuals who refuse to provide Social Security numbers. As a result of DHHS's opinion, until the time this issue is resolved municipalities do encounter a modicum of risk should they deny an applicant GA based on the applicant's failure to provide his or her Social Security number. However, MMA takes the position that such a denial of GA (based on the above analysis) is a defensible position and that municipalities take only a calculated risk that they will be appealed for such a determination.*

CHAPTER 12 – Fair Hearing Authority Reference Manual

***Please Note:** The contents of this manual are intended to provide general guidance and should not be relied upon by the reader as the sole source of information. The reader should seek further counsel and information in dealing with a specific problem by contacting the Maine Municipal Association or a private attorney.*

When an applicant for General Assistance is dissatisfied with a decision regarding his or her request for assistance, the applicant may request a Fair Hearing. This reference manual is intended to help the Fair Hearing Authority (FHA) conduct a hearing more effectively and reach a fair decision. It is important for the FHA to understand its duties and the hearing procedures.

The basic role of the Fair Hearing Authority is to 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***, and whether the administrator’s decision was correct.

GA ordinances vary from municipality to municipality and the Fair Hearing Authority should be familiar with the individual municipality’s GA ordinance before the Fair Hearing. FHAs with questions regarding statutory interpretation relative to the general assistance law, DHHS policy and other such matters may seek clarification from DHHS ***prior to the commencement of a fair hearing***, but may not consult with DHHS regarding the merits of the case.

Right to a Fair Hearing

As a matter of law, any GA applicant who is dissatisfied with the decision of the GA administrator on his or her application has the right to appeal that decision to the Fair Hearing Authority, hereinafter referred to as “the Authority.” 22 M.R.S.A. § 4321.

At the time the administrator gives a decision on an applicant’s request for the GA, the administrator must notify the applicant in writing that if dissatisfied, the applicant has the right to appeal the decision within five working days. 22 M.R.S.A. § 4322.

The reasons why a person may want a Fair Hearing include:

1. failure of the administrator to render a written decision within 24 hours;
2. the administrator’s refusal to accept an application or reapplication;

3. dissatisfaction with the administrator's decision.

The law further requires that if the municipality decides to reduce or terminate the assistance during the period of eligibility, the recipient has a right to be notified of such impending action and has a right to a hearing before the assistance is reduced or terminated. 22 M.R.S.A. § 4321.

Process for Filing a Request for a Fair Hearing

Any applicant who is aggrieved by the action or non-action of the GA administrator may request a Fair Hearing. The applicant must request a hearing within **five working days** of receiving a written notice of denial, reduction or termination, or within **ten working days** after any other act or failure to act on an application. Once an applicant has made a clear expression that he or she desires a fair hearing, the administrator should have the applicant complete a written request for a hearing (see Appendix 17 for a sample form).

Upon receiving the written request, the administrator must take all the steps necessary to schedule a fair hearing. The hearing must be held within five working days of receiving the request. *Requests for fair hearings that are not received within the statutory period will not be considered timely filed and the applicant will have **forfeited** the right to a fair hearing.* The administrator should tell the applicant why he or she can't have a fair hearing this time, and let the applicant know he or she may file a new application for assistance.

Scheduling a Fair Hearing—Notice

Once a GA administrator has received a written request for a fair hearing, the administrator must schedule one. *The hearing must take place within **five working days** of receiving the request.* The administrator must notify the FHA that a request has been filed, and arrange for a hearing to be held at a time that is mutually convenient for the FHA and the claimant.

The hearing should be held as soon as possible, keeping in mind that it must be held within five working days, and each side should be given ample opportunity to prepare its case. Forty-eight hours advance notice is reasonable, if possible. As soon as the hearing is scheduled, *the administrator **must** notify the claimant in **writing** of the date, time and place of the hearing.*

Giving notice involves more than merely stating the time, date and place of the hearing. The notice should inform the claimant of the subject matter of the hearing. The administrator should also explain the hearing procedure to the claimant; that the claimant will have a chance to tell his/her side of the story; that the claimant may bring and question witnesses;

that the claimant and any witnesses for the claimant will be questioned; that both written and oral evidence may be introduced at the hearing; and that the claimant may be represented by legal counsel at his/her expense. Further, no information may be given or told to the FHA that is not also available to the claimant. *The administrator can give the FHA the case record prior to the hearing, but cannot discuss the merits of the appeal with the FHA either before or after the hearing until the FHA has issued its decision.*

Claimant's Failure to Appear

On occasion, the municipality will schedule a fair hearing, give written notice to all the parties, and then the claimant fails to come to the hearing. If the party who requests the hearing fails to appear, the FHA should convene the hearing, note for the record that the claimant failed to show up, and close the hearing. The FHA should send *a written* notice to the claimant that it did not alter the administrator's decision because no evidence was introduced indicating it should be overturned. The notice shall indicate that the claimant has five *working days (per MMA's sample GA ordinance)* from receipt of the notice to submit to the Administrator information demonstrating "just cause" for failure to appear. The following are examples of circumstances which may constitute just cause:

- A death or serious illness in the family;
- A personal illness which reasonably prevents the party from attending the hearing;
- An emergency or unforeseen event which reasonably prevents the party from attending the hearing;
- 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;
- Lack of receipt of adequate or timely notice;
- Excusable neglect, excusable inadvertence, or excusable mistake.

If a claimant establishes just cause within five working days, the request for the hearing will be reinstated and a hearing rescheduled.

If the claimant does not appear for the hearing but his/her attorney does, the FHA should proceed with the hearing. Should the attorney introduce information demonstrating "just cause" for his/her client's failure to appear then the hearing should be recessed until another day.

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

Withdrawing a Request for a Fair Hearing

Once a GA administrator receives a request for a fair hearing, the administrator must act upon it. If a claimant who has filed a request for a hearing decides that he/she doesn’t want to go ahead with it, the claimant may stop the hearing only by presenting a *written notification* to the administrator that he or she wants to withdraw the request for a hearing. If an administrator receives such a notification, it should be entered in the claimant’s case file, noted in the narrative record, and no further action need be taken.

The Fair Hearing Authority

Every municipality must appoint a Fair Hearing Authority to hear appeals of decisions made by the GA administrator. According to the law (22 M.R.S.A. § 4322), the Fair Hearing Authority may take one of three forms. It may be:

1. *one or more municipal officers*, provided those municipal officers had absolutely no involvement with the GA decision or appeal;
2. the *Board of Appeals* (created in accordance with 30-A M.R.S.A. § 2691), if authorized by the municipal officers; or
3. *one or more persons* appointed by the municipal officers to act as the FHA.

As an aside, although municipalities may choose any of the above forms of FHA, there exist practical considerations, which favor the last alternative, “one or more persons” form of FHA. Municipalities seeking the least administratively burdensome form, one which may promote a greater sense of “fairness” for the GA client and one which minimizes the risks involved in breach of confidentiality, should consider the third alternative.

Regardless of the form of FHA a municipality chooses, the essential quality of the FHA is **fairness**. Under **no** circumstances may any person who played any part in the grant or denial of GA to the claimant serve as the Fair Hearing Authority.

If, for instance, the first selectman serves as the general assistance administrator, that selectman *may not* serve as a member of the FHA. If the administrator discusses a case with someone, that person may not serve on the FHA if that case is appealed.

There are several qualities the members of the FHA must have, but above all the FHA must be impartial. The FHA must be well acquainted with the state law and the ordinance. The FHA must be capable of evaluating all evidence that comes before it in a fair and impartial manner.

Duties of the Fair Hearing Authority

Before holding a fair hearing, it is important for the FHA to know and understand its responsibilities. The FHA must not “rubber stamp” the administrator’s decision. The FHA must determine the claimant’s eligibility independently of the administrator’s decision. *Carson v. Town of Oakland*, 442 A.2d 170 (Me. 1982). A Fair Hearing is an administrative proceeding known as a *de novo* hearing which is Latin for anew or afresh. This means that the FHA must determine the claimant’s eligibility as if no decision had been made by the administrator. The FHA must consider if the claimant was eligible for assistance *at the time he or she applied, based solely on the information and evidence presented at the Fair Hearing*.

It should be emphasized that the Fair Hearing Authority is an administrative review body that functions without the technical rules of evidence, but it is still subject to the requirements of *due process*. Although the hearing may be conducted less formally than a court hearing, the FHA is responsible for protecting the claimant’s individual rights and liberties under the law.

The hearing must be held in private unless the claimant has given express, written consent to hold the hearing in public. 22 M.R.S.A. § 4322. The only persons authorized to attend the hearing are the FHA, the claimant, the GA administrator, legal representatives, witnesses, and a clerk or stenographer to transcribe the hearing proceedings.

In addition to its duty to be impartial and fair, the FHA also has some procedural duties of which it must be aware. The FHA has the duty to:

1. open the hearing, explain the purpose of the hearing and the rules of conduct;
2. direct the course of the hearing, making sure it is conducted in an orderly fashion, keeping the testimony to the case at hand, and allowing all sides to present their facts and witnesses;
3. administer oaths to people who testify;

4. hear all testimony and accept evidence which is germane and will help to render a decision;
5. close the hearing after all parties have been satisfied that all evidence has been presented;
6. make a fair decision that is written and given to the applicant within 5 working days after the hearing. 22 M.R.S.A. § 4322.

In order to help the FHA prepare for the hearing it may need certain information prior to the hearing. The FHA should be told what the issues to be decided are. The Administrator and the claimant may give the FHA useful information prior to the hearing, provided that the other party is notified and the information is made available to the other party. For instance, the Administrator may give the FHA a copy of the claimant's application, budget sheet decision and request for a hearing. The claimant might give the FHA a doctor's statement verifying a disability, or copies of bills.

State law requires municipalities to make a taped record of the Fair Hearing. 22 M.R.S.A. § 4322. Recording the hearing is important to help the FHA make its decision, but also to help substantiate the municipality's case if the claimant appeals the FHA's decision to the Superior Court, or eventually, the Supreme Court. Claimants must provide (i.e., pay for) a transcript of the taped record if they decide to appeal the decision to the Superior Court.

Fair Hearing Decision

*The Fair Hearing Authority's decision must be made within **five working days**.* 22 M.R.S.A. § 4322. The FHA must take into account the law, the local ordinance, and all the information presented at the hearing, while reaching its decision. The decision must be made in accordance with the ordinance in effect at the time the administrator made the decision. The ordinance *may not* be changed in the course of the FHA's deliberations.

The written decision must state explicitly the reasons for the FHA's action. It should state the reason for the hearing, the issues at appeal, the relevant facts discussed, and the decision and the reason for it, citing the pertinent provisions of the law and the ordinance. The decision must also include a section informing the claimant that he or she has the right to appeal the decision to the Superior Court within 30 days of receiving the decision. 22 M.R.S.A. § 4322. The decision of the Fair Hearing Authority is binding upon the administrator.

Copies of the decision must be given to the claimant and the GA administrator and kept in the claimant's file.

Please Note: For further guidance on GA Fair Hearings (e.g., *Fair Hearings Checklist*, *FHA Sample Script*, etc.), refer to the following packet.

General Assistance Fair Hearings



Contents:

- **GA Fair Hearings “A Checklist”** (Exhibit 1)
- **Notice of General Assistance Eligibility** (Exhibit 2)
- **Notice of General Assistance Ineligibility** (Exhibit 3)
- **Request for a Fair Hearing & Notice of Fair Hearing** (Exhibit 4)
- **Notice of Fair Hearing Decision** (Exhibit 5)
- **GA Fair Hearing Proceeding “A Script”** (Exhibit 6)
- **Basic Guide to Memorandum of Support** (Exhibit 7)
- **Sample Memorandum of Support** (Exhibit 8)
for GA Administration’s Decision

GA Fair Hearings “A Checklist”

Applicant requests General Assistance (i.e., fills out appropriate application, etc.)

1st The Written Decision

- ☐ GA administrator provides applicant with the written decision (notice of eligibility/ineligibility) either:
 - by hand;
 - by certified mail, return receipt requested (legally sufficient and provides proof of receipt by applicant—if applicant accepts the certified packet); or
 - by regular mail (legally sufficient, but difficult to prove actual receipt by applicant)

Note: In difficult cases the GA administrator may decide to mail the applicant/recipient the decision both by regular mail and certified mail, return receipt requested. The GA decision or notification should contain the local hearing procedure for requesting the hearing (see Exhibits 2 & 3 for sample “Notices of Eligibility/Ineligibility”).

2nd The Request for Appeal

- ☐ Applicant provides town with a written request for an appeal within 5 days of receipt of the written notification of eligibility/ineligibility (*see Exhibit 4 for a sample “Request for a Fair Hearing”*).

Note: It is difficult, if not impossible, to assert the timeliness rule if the town does not have proof of receipt of the decision by the applicant. Moreover, the 5-day window provided to the applicant turns into 10-days for “any other act or failure to act” by the GA administrator. For example, this extension would typically apply when the town issues no decision after a GA application has been submitted.

- ☐ If “yes” to all of the above, proceed with Fair Hearing request.
- ☐ If “no” to the above, does applicant have “just cause” for the delay in requesting the appeal (i.e., given a set of factual circumstances it would be unreasonable to expect the

applicant to possess the ability/wherewithal to appeal in a timely manner).

Note: Should “just cause” exist, the town may choose to waive the timeliness issue. However, it is ultimately up to the FHA to decide on the matter or reject the appeal on the grounds of timeliness.

3rd 5-Day Time Frame

- ☐ “Just cause” is not found to exist, and the applicant has missed the 5-day time frame. The applicant reapplies for general assistance. Is there new information giving the applicant reason to reapply?
- ☐ If yes, proceed with the reapplication.
- ☐ If not (applicant’s situation has not changed), nor is there a need for emergency assistance, then allow the appeal to proceed. During fair hearing assert the time bar issue and the FHA should find the applicant was not timely.

Note: If applicant reapplies due to a change in financial situation (i.e., loss of income, household size changed, expenses changed or, emergency developed, etc.), then reapplication process should take place. Remember that reapplication comes with a new right to a fair hearing!

4th Proceeding with the Hearing

- ☐ It is determined that the fair hearing process should proceed. Has the GA administrator:
- ☐ Reviewed the pertinent statutes/DHHS policy/ordinance (or, called DHHS/MMA) in order to review decision;
- ☐ Spoken to the applicant to ascertain that applicant understands the reason for the decision;
- ☐ Informed the applicant that he/she will be receiving a “Notice of Fair Hearing” with the date, time, and place of hearing, within a day or two.

**5th
Contacting the FHA**

- ☐ Contact FHA and set up a date, place and time for the hearing. If appropriate, inform FHA that you are sending pertinent parts of case record, etc.

Note: Absolutely do not discuss the case with the FHA. This sort of communication is considered an ex parte communication and is strictly prohibited!

**6th
Notification of Fair Hearing**

- ☐ Send complainant notification of hearing that includes date, place and time of hearing. In addition, notice should also state complainant's rights (e.g., right to bring witnesses, cross examine witnesses and be represented by an attorney at their own expense) (*see Exhibit 5 for a sample "Notice of Fair Hearing"*).

**7th
Submitting Case Record**

- ☐ Send FHA and applicant (now a complainant) pertinent parts of the case file (as necessary and/or appropriate).

Note: Whatever information FHA receives (whether during or, prior to the hearing) the complainant must also receive!

**8th
Prepare For Hearing**

- ☐ Prepare for hearing i.e., write memorandum/brief (*see Exhibit 9 for sample "Memorandum"*).

**9th
Holding Hearing**

- ☐ FHA holds hearing. (*See Exhibit 7 of this packet for a sample script to follow.*)

**10th
Decision in 5-Days**

- ☐ Remind FHA to issue a written decision within 5 working days of the hearing (*see Exhibit 5 for a sample "Notice of Fair Hearing Decision"*).

*Note: Again, **absolutely do not discuss the case with the FHA**. This sort of communication is considered an *ex parte* communication and is strictly prohibited!*

**11th
Follow FHA's Decision**

- ☐ Upon receipt of FHA's decision, follow the FHA's directions exactly regardless of the decision.

**12th
Appeal of FHA's Decision**

- ☐ Does either party want to appeal the FHA decision? Either party can appeal the decision within 30 days of the receipt of the fair hearing decision, in Superior Court, pursuant to Maine Rules of Civil Procedure, Rule 80-B.

Note: This is a costly option and the party considering appeal will require an attorney. Municipal officers may need to approve this expenditure of funds for legal representation. Bottom line-make, certain the issue is worth appealing.

Notice of General Assistance Eligibility

Notice of General Assistance Eligibility

Dear _____, Date: _____

You have been found eligible to receive General Assistance from _____ (date) to _____ (date), for the following reason(s):

- ☐ You are in need (your income is less than the maximum levels in the ordinance). (22 M.R.S.A. §§ 4301(7), 4301(8A), 4301(10), 4305, 4308)
- ☐ You are eligible for emergency assistance (22 M.R.S.A. §§ 4308(2), 4315-A)

You will receive the following assistance:

Type	Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____
Total: \$ 0.00	

In order to be eligible for any assistance in the future:

1. You must do the following items that are checked:

• **Benefits:** Apply for the following within 7 days:

- | | | |
|--|---|---|
| <input type="checkbox"/> TANF | <input type="checkbox"/> Family Crisis (EA) | <input type="checkbox"/> Subsidized Housing |
| <input type="checkbox"/> WIC | <input type="checkbox"/> Unemployment Comp. | <input type="checkbox"/> Veterans Benefits |
| <input type="checkbox"/> Food Stamps | <input type="checkbox"/> Workers' Comp. | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Fuel Assistance (HEAP/ECIP) | <input type="checkbox"/> SSI/SSDI | |

• **Assets:** You must make a good-faith effort to liquidate the following assets:

- | | | |
|---|--|---|
| <input type="checkbox"/> Bank Account | <input type="checkbox"/> Retirement Account (IRA) | <input type="checkbox"/> Recreational Vehicle |
| <input type="checkbox"/> Stocks/Bonds | <input type="checkbox"/> Real Estate (other than home) | <input type="checkbox"/> Boat |
| <input type="checkbox"/> Life Insurance | <input type="checkbox"/> Vehicle | <input type="checkbox"/> Other: _____ |

• **Work/Education:**

- ☐ Diligently seek work at _____ places a week
- ☐ Visit the CareerCenter Office for job counseling and placement
- ☐ Apply for vocational rehabilitation training
- ☐ Apply for ASPIRE
- ☐ Register for and attend classes at _____
- ☐ Seek budget counseling at _____
- ☐ Sign up for and complete workfare
- ☐ Provide a doctor's statement describing any limitations in your ability to work and period of time you will be limited.
- ☐ Other: _____

2. By the next time you apply you must: 1) read the back of this decision regarding use-of-income requirements and limitations on emergency assistance; 2) _____

3. If you want to receive General Assistance in the future:

- You must make a good-faith effort to make all reasonable efforts to reduce your need for General Assistance, including using available and potential resources such as other government benefit programs, assistance from legally liable relatives, employment opportunities, etc.
- If you are able to work, but are unemployed you must make a good-faith attempt to find a job, accept a job offer, and participate in any training or rehabilitation program that would help you become employed.
- You must not quit your job unless you can document a good reason for doing so, nor must you be fired for misconduct.
- If you are assigned workfare, you must complete your work assignment satisfactorily.
- You must report your household income and expenses completely and accurately and report any changes in the household or income to the administrator.
- Should you receive a lump sum payment between the date of this decision and any future application for General Assistance, you must report to the Administrator the receipt and the amount of that lump sum payment. Under certain circumstances the municipality has the right to consider (i.e., prorate) lump sum income available to your household for as long as 12 months after an application for General Assistance. Lump sum income that is spent toward basic necessities will not be prorated, therefore you should keep receipts of your expenditure of lump sum income in order to preserve your eligibility for General Assistance during the 12-month period after receiving a lump sum payment.
- You must not commit fraud or violate rules of other programs which would cause you to lose other public benefits such as TANF or Unemployment Compensation.
- You must show that your income has been used for basic necessities such as: rent/mortgage, fuel, utilities, non-elective medical services, non-prescription drugs, telephone when medically necessary, necessary work-related expenses, clothing, personal supplies and food. Income received within a 30-day period and spent on non-necessities shall be considered available to the household resulting in a reduction or denial of future benefits. Examples of spending for non-necessities include expenditures for tobacco or alcohol, gifts, trips or vacations, court fines, repayments of unsecured loans, credit card debt, etc.
- The municipality reserves the right to apply specific use-of-income requirements to any applicant who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income. These requirements will take the form of written directives to spend all or a portion of prospective income toward priority basic necessities such as housing (rent/mortgage), energy (heating fuel/electricity), or other specified basic necessities. Failure to abide by these requirements may result in an ineligibility for General Assistance to replace the misspent income, unless you are able to show with verifiable documentation that all income was spent on basic necessities up to the maximum amounts allowed by ordinance.
- For you to be eligible for emergency General Assistance in the future (for example, to avert an eviction or disconnection of electric service), you will have to be able to demonstrate that you could not have prevented the emergency situation from occurring with the income and resources available to you. Please refer to the municipal General Assistance ordinance to review the guidelines the administrator may follow to limit the amount of emergency General Assistance you will be eligible for if you could have financially prevented or partially prevented the emergency from occurring.

Important:

Failure to fulfill one or more of these requirements may result in your being ineligible to receive assistance the next time you apply, or even disqualification from the program for 120 days.

Assistance that you receive must be repaid to the municipality if you are ever financially able to repay it. Parents who are financially able are required by law to help their children under the age of 25, as spouses are legally required to financially support each other. The municipality has the right to require these relatives to repay any assistance that is granted.

If you are dissatisfied with this decision, please feel free to discuss it with me. You have the right to have a fair hearing. A person who was not involved with this decision will decide whether you are eligible for assistance. If you would like a fair hearing, you must request a hearing in writing within 5 working days of when you receive this notice. You have the right to be represented by an attorney, at your expense, and to present witnesses and written evidence on your behalf. Forms to request a hearing are available from my office.

You also have the right to contact the State Department of Human Services in Augusta (1-800-442-6003) if you think this decision violates state law.

If you have any questions, do not hesitate to contact me.

Sincerely,

General Assistance Administrator

Notice of General Assistance Ineligibility

Please Read Carefully

Notice of General Assistance Ineligibility

Dear _____: Date: _____

You have been found ineligible to receive General Assistance for the following reason(s):

- ☐ You are not in need (your income exceeds the maximum levels or you have sufficient available resources. (22 M.R.S.A. §§ 4301(10), 4305, 4315-A)
- ☐ You are over income and there is no emergency. (22 M.R.S.A. § 4308)
- ☐ You refused to search for employment as required. (22 M.R.S.A. § 4316-A)
- ☐ You refused to register for work. (22 M.R.S.A. § 4316-A)
- ☐ You refused to accept a suitable job offer. (22 M.R.S.A. § 4316-A)
- ☐ You refused to participate in a training or education program as directed. (22 M.R.S.A. § 4316-A)
- ☐ You failed to perform or complete workfare. (22 M.R.S.A. § 4316-A)
- ☐ You quit work without just cause or were fired for misconduct. (22 M.R.S.A. § 4316-A)
- ☐ You refused to utilize a potential resource after being instructed to in writing. (22 M.R.S.A. § 4317)
- ☐ You willfully made a false representation about your eligibility. (22 M.R.S.A. § 4315)
- ☐ You did not report changes in your income or other circumstances affecting your eligibility. (22 M.R.S.A. § 4309)
- ☐ You did not provide or permit me to gather the necessary verification and documentation as requested. (22 M.R.S.A. § 4309)
- ☐ Other: _____

Explanation:

Disqualification Period: You are ineligible to receive General Assistance:

- ☐ for 120 days
- ☐ for 120 days—unless you regain your eligibility by complying with the work requirement(s)
- ☐ until you attempt to make use of the following potential resources: _____
- ☐ for 120 days from separation from employment, or until (date) _____
- ☐ Other: _____

Important: If you disagree with this decision, please feel free to discuss it with me. You have the right to request a Fair Hearing. A person who was not involved in this decision will decide whether you are eligible for assistance. If you would like a Fair Hearing, you must request a hearing in writing within 5 working days of when you receive this notice or by _____ (date). You have the right to be represented by an attorney, at your expense, and to present witnesses and written evidence on your behalf. Forms to request a hearing are available from my office.

You also have the right to contact the State Department of Human Services in Augusta (1-800-442-6003) if you think this decision violates state law.

If you have any questions, do not hesitate to contact me. Please read the other side of this decision.

Sincerely,

General Assistance Administrator

General Assistance Guidelines & Information

October 1, 2014

General Assistance Guidelines Overall Allowed (A)		Food Stamps (B)		Rent Returned From Crisis ECIP - Dirigo Housing (9 month maximum) (C)			People to People Personal (F)	
People	Amount	Bed Rooms	Amount	Bed Rooms	Rent No Heat	Rent Heated	People	Amount
1	\$ 660	1	\$ 194	0	\$ 513	\$ 600	0	\$ 45
2	\$ 727	2	\$ 357	1	\$ 535	\$ 659	2	\$ 45
3	\$ 916	3	\$ 511	2	\$ 684	\$ 838	3	\$ 50
4	\$ 1,140	4	\$ 649	3	\$ 862	\$ 1,048	4	\$ 50
5	\$ 1,223	5	\$ 771	4	\$ 889	\$ 1,118	5	\$ 55
6	\$ 1,292	6	\$ 925				6	\$ 55
7	\$ 1,361	7	\$ 1,022				7	\$ 60
8	\$ 1,430	8	\$ 1,169				8	\$ 60
More Add:	\$ 69	More Add:	\$ 146				More	Add \$5
General Assistance Burial Services		HEAP Fuel Oil (E)		ECIP Utilities (D)			Children	Amount
3 Days Notification 8 Days for Decision		Month	Amount	Bed Rooms	No Elec Hot Water	Elec Hot Water	1	\$ 55
Cremation - Lot, Urn, Transportation \$ 785		Sept	\$ 50	1	\$ 60	\$ 82	2	\$ 75
		Oct	\$ 100	2	\$ 67	\$ 102	3	\$ 100
		Nov	\$ 200	3	\$ 75	\$ 119	4	\$ 120
		Dec	\$ 200	4	\$ 86	\$ 139		
Funeral - Lot, Liner, Opening/Closing \$ 1,125		Jan	\$ 225	5	\$ 99	\$ 160		
		Feb	\$ 225	6	\$ 107	\$ 176		
		Mar	\$ 125					
		Apr	\$ 125					
SSI \$ 255 (Spouse or dependent under 18)		May	\$ 50					
		Year	\$ 1,300					
Notice \$ 75								
Food Stamps		1-800-432-7802	Alternate Aid	Minimum Wage:				
CMP		1-800-750-4000	Emergency Assistance	October-09				
TANF		1-800-432-7802		\$ 7.50				
SSI		1-800-772-1213 press (#0) (3)	Keep Job	Transportation:				
			Find Job	1-Jul-08				
SSI		596-6633		.44/mile				
231 Park Street			Cash					
Rockland, ME 04841			Food					
			Medical					
State of Maine			Child Support					
Office of Intergrated Acc/Supp		1-800-432-7802						
Rockland		287-3106						
		fax 287-5096						
		TDD 287-6948						
						#445 Prescriptions		
						Free Care?		



Town of Waldoboro Land Use Ordinance

Adopted by Town Meeting
June 16, 2005

Amended by Town Meeting
June 14, 2016

Amended by Town Meeting
June 15, 2006

Amended by Town Meeting
February 12, 2008

Amended by Town Meeting
June 9, 2009

Amended by Town Meeting
November 3, 2009

Amended by Town Meeting
June 8, 2010

Amended by Town Meeting
November 8, 2011

Amended by Town Meeting
June 11, 2013

Amended by Town Meeting
February 25, 2014

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ARTICLE 1. GENERAL

A. Title

This Ordinance shall be known and may be cited as the "Land Use Ordinance of the Town of Waldoboro, Maine" and will be referred to herein as "this Ordinance."

B. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the State of Maine Constitution and the provisions of 30-A M.R.S.A. § 3001 (Home Rule). It is also adopted pursuant to various provisions of law, including without limitation, the state's Growth Management Law, 30-A M.R.S.A. § 4312 et seq.; Zoning, 30-A M.R.S.A. § 4352 et seq.; the Mandatory Shoreland Zoning Act, 38 M.R.S.A. § 435 et seq.; the Subdivision Law, 30-A M.R.S.A. § 4401 et seq.; Protection of Drinking Water Supplies, 22 M.R.S.A. § 2642 et seq.; and Manufactured Housing, 30-A M.R.S.A. § 4358 et seq.

C. Purpose

The purposes of this Ordinance are:

- to implement the provisions of the Comprehensive Plan;
- to encourage the most appropriate use of land throughout the Town;
- to provide adequate light, clean air and water;
- to prevent overcrowding of real estate;
- to conserve natural resources;
- to prevent housing development in unsuitable areas;
- to promote traffic safety;
- to promote coordinated development;
- to ensure the maintenance of the public health and safety respecting land, buildings, and premises;
- to provide for the preservation of open space and aesthetic appearance;
- to promote the development of the town as a desirable place to live and work;
- to encourage the formation of community units;
- to conserve and enhance the value of land and buildings by protecting the integrity of the districts created herein from encroachment by incompatible uses;
- to encourage appropriate commercial and industrial growth to ensure a diverse range of job opportunities to the residents of Waldoboro;
- to ensure the continued viability of home occupations;
- to promote the economic vitality of Waldoboro;
- to encourage currently viable businesses to stay in, expand and prosper in Waldoboro;
- to attract new businesses to Waldoboro that are consistent with the goal of preserving our small-town atmosphere;
- to provide safety from fire, flood and erosion; and generally,
- to promote the health, safety, convenience and welfare of the inhabitants of the Town of Waldoboro.

D. Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of the availability of this Ordinance shall be posted.

E. 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 control.

F. Validity and Severability

In the event that any article, section, subsection, or other provision of this Ordinance is held or becomes invalid or void, by virtue of any decision of any court of competent jurisdiction, or by virtue of any controlling federal, State, or other law, then only such article, section, subsection or other provision which is specifically mentioned in such decision of the court, or which is specifically controlled by such federal, State, or other law, shall be affected and the remaining portions of this Ordinance shall continue to be valid, and remain in full force and effect.

G. Basic Requirements

After the effective date of this Ordinance no person shall engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use; nor shall any principal or accessory structure be built, constructed, set, installed, established, expanded, substantially altered, improved, or relocated without being in conformity with the provisions of this Ordinance.

H. Amendment

1. Initiation of amendments. An amendment of this Ordinance may be initiated by a written petition of a number of the registered voters of the Town of Waldoboro equal to at least ten percent (10%) of the votes cast in the Town at the last gubernatorial election or by a recommendation of the Board of Selectmen.
2. Public hearing. The Board of Selectmen shall fix the time and place of a public hearing on the proposed amendments in accordance with State law, and such public hearing shall be so held.
3. Effective date. Amendments shall go into effect immediately after enactment.
4. Land Use Map. Whenever an amendment to the Land Use Map is made, the Town Clerk shall make such change on the official Land Use Map. Owners of affected properties shall be notified. If the amendment involves a shoreland zoning change, the Clerk shall forward it to the Commissioner of the Department of Environmental Protection for approval.

I. Effective Date

This Ordinance shall be effective immediately after passage by the legislative body of the Town of Waldoboro. Article 7, Shoreland Zoning, shall not be effective unless approved by the

Commissioner of the Department of Environmental Protection.

A certified copy of Article 7, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on Article 7 within forty-five (45) days of his/her receipt of Article 7, it shall automatically be approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of Article 7 if Article 7 is approved by the Commissioner.

Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. § 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A § 438-A(5), the following provisions of this Ordinance are repealed:

- Article 7., Section E.. Table of Land Uses, Land Use 4 (Forest management activities except for timber harvesting) and Land Use 5 (Timber harvesting);
- Article 7., Section 16. in its entirety; and
- Article 16., Section B., Definitions, the definitions of "forest management activities" and "residual basal area".

J. Fees

Fees in effect at the effective date of this Ordinance shall remain in effect until such time as new fees are set by the Board of Selectmen after public notice and hearing.

General

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ARTICLE 2. ADMINISTRATION AND ENFORCEMENT

A. Code Enforcement Officer

Unless otherwise provided in this Ordinance, the Code Enforcement Officer, as duly appointed or reappointed annually by July 1st, by the Town Manager and confirmed by the Waldoboro Board of Selectmen, shall administer and enforce this Ordinance. No permit or certificate of occupancy shall be issued by the Code Enforcement Officer except in compliance with the provisions of this Ordinance. The Code Enforcement Officer shall have the following duties, among others, in enforcing this Ordinance:

1. Preliminary plans. Examine preliminary plans.
2. Applications and fees. Act upon all applications and collect any fees due; refer/process all applications as required.
 - a. Code Enforcement Officer applications. Act upon building, construction and use applications which are under the jurisdiction of the Code Enforcement Officer as set forth in Article 3, Section F, Schedule of Uses;
 - b. Planning Board applications. Review site plan review applications, subdivision applications, and hazardous materials applications for completeness of submissions and refer such applications to the Planning Board; and
 - c. Board of Appeals applications. Refer requests for variances and administrative appeals to the Board of Appeals.
3. Inspections. Inspect sites where building permits have been issued to ensure compliance with all local, State and federal laws, codes and/or ordinances.
4. Complaints and violations. Investigate complaints and reported violations.
5. Reports and records. Keep written inspection reports and thorough records.
6. Violation notices. Issue violation notices.
7. Appeals. Participate in appeals procedures.
8. Consent agreements. Process or act on consent agreements involving violations of this Ordinance or appear in court when necessary.
9. Agendas. Prepare agenda, comments and recommendations for mailing at least seven (7) calendar days before each meeting of the Board of Appeals, and attend meetings, provide advice and comments to the Planning Board and Board of Appeals.
10. Permit revocation. Revoke a permit after notice if it was issued in error or if it was based on erroneous information.
11. Additional Duties. Performs additional duties as assigned by the Town Manager.

When there is a question concerning the interpretation of this Ordinance, the Code Enforcement

Officer may refer the matter to the Board of Appeals for interpretation.

B. Planning Board

1. Establishment. Pursuant to M.R.S.A. Const. Art. VIII Part Second and 30-A M.R.S.A. § 3001, the Town hereby establishes the Planning Board for the Town of Waldoboro.
 - a. Appointments. Planning Board members shall be appointed by the Board of Selectmen and sworn by the Town Clerk or other person authorized to administer oaths.
 - b. Number of members. The Planning Board shall consist of seven (7) members.
 - c. Terms. The term of each member shall be three (3) years.
 - d. Vacancy. When there is a permanent vacancy, the Board of Selectmen shall, within thirty (30) days of its occurrence, appoint a person to serve the unexpired term. A vacancy occurs upon the resignation or death of any member, or when a member ceases to be a voting resident of the Town, or fails to attend at least seventy-five percent (75%) of all meetings during the preceding twelve (12) month period. When a vacancy occurs, the Chairman of the Board shall immediately so advise the Board of Selectmen in writing. The Planning Board may recommend to the Board of Selectmen that the attendance provision be waived for cause, in which case no vacancy will then exist until the Board of Selectmen disapprove the recommendation. The Board of Selectmen may remove members of the Planning Board by vote for cause after notice and hearing.
 - e. Selectman. A Selectman or a Selectman's spouse may not be a Planning Board member.
2. Organization and Rules
 - a. Offices. The Planning Board shall elect a chairperson from among its members and create and fill such other offices as it may determine. The term of all offices shall be one (1) year with eligibility for re-appointment.
 - b. Disqualification. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present and voting except the member who is being challenged.
 - c. Meetings. The chairperson shall call at least one (1) regular meeting of the Board each month. The Town Planner or their designated alternate shall prepare meeting agendas, information packets, comments, and recommendations for mailing to all members of the Board at least seven (7) calendar days before each meeting of the Board, and shall attend all Planning Board meetings.
 - d. Quorum. No meeting of the Board shall be held without a quorum consisting of four (4) members.
 - e. Majority vote. The Board shall act by majority vote calculated on a quorum of the members present and voting.
 - f. Reconsideration. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its

original decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

Reconsideration must be for one of the following reasons:

- 1) The record contains significant factual errors or omissions; or
 - 2) The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.
- g. Rules and records. The Board shall adopt rules for transaction of business and the Code Enforcement Officer shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.
3. Duties and Powers
- a. Reviews. The Planning Board shall be responsible for reviewing and acting upon applications for Site Plan and Subdivision Reviews in accordance with the provisions of Article 6 of this Ordinance, as well as certain shoreland zoning applications in accordance with the provisions of Article 7 and hazardous materials applications in accordance with Article 9. Following approval, the applicant shall return to the Code Enforcement Officer for building and other permits. The Planning Board shall also review applications requiring Planning Board approval set forth in Article 3, Section F Schedule of Uses.
 - b. Duties and powers. The Board shall perform such duties and exercise such powers as are provided by this Ordinance and laws of the State of Maine. The Planning Board shall review the Land Use Ordinance and recommend Ordinance revisions to the Selectmen for vote by townspeople.
 - c. Goods and services. The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

C. Code Enforcement Officer Permit Required

The owner of the property shall obtain a permit issued by the Code Enforcement Officer for any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use; nor shall any principal or accessory structure be built, constructed, set, installed, established, expanded, substantially altered, improved or relocated prior to the fact including:

1. Activities Listed in the Schedule of Land Uses. Any activity listed in Article 3, Section F of this Ordinance as requiring a permit from the Code Enforcement Officer. No permit may be issued under this provision for an activity which is part of a site or project requiring Site Plan Review until such approval has been granted by the Planning Board.
2. Site Plan Review Activities. Any activity approved by the Planning Board under the Site Plan Review provisions of Article 6 of this Ordinance.
3. Shoreland Zoning Activities. Any activity listed in Article 7 as requiring a permit from the Code Enforcement Officer. See Article 7 for additional provisions for administering permits

Administration and Enforcement

- in the Shoreland Zone. No permit may be issued under the provisions of Article 7 for an activity requiring Planning Board review until approval for such permit has been granted by the Planning Board in accordance with the provisions of Article 7.
4. Floodplain Management Activities. Any activity listed in Article 8 as requiring a permit from the Code Enforcement Officer. Such permit shall be issued in accordance with the provisions of Article 8.
 5. Permit Application Procedure
 - a. Application. The application for the permit shall be in writing on a form available from the Code Enforcement Officer, and shall contain a description of any proposed structure(s) or land uses prior to the fact. A scale drawing of the structure(s) and a plan of the site shall accompany the application. When required by the State Plumbing Code, the Code Enforcement Officer shall require evidence of adequate capacity of the septic system to support the structure(s) contemplated. All applications shall be signed by the owner or owners of the property or other person(s) authorizing the work, certifying that the information in the application is complete and correct. The applicant shall submit proof of right, title or interest in the property. 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. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
 - b. Modifications. Any modifications to the description, scale drawing, or site plan of the proposed structure(s) shall require a revised permit application, payment of an additional one-half of the application fee, and a permit prior to beginning the work.
 - c. Fees. Each application shall be accompanied by an application fee payable to the Town of Waldoboro.
 - d. Burden of proof. The applicant shall have the burden of proving that a proposed land use activity is in conformity with the provisions of this Ordinance.
 6. Processing the Application. Within ten (10) working days of the date of receipt of a complete application for a permit, the Code Enforcement Officer shall examine such application and physically examine the premises to determine whether or not the proposed building, structure or use would be in compliance with this Ordinance.
 - a. Referrals. All applications which require action from the Board of Appeals or which require approval by the Planning Board shall within such period of thirty (30) days be referred to the applicable Board for action and public notice shall be given. After approval, with or without conditions, by such Board, the Code Enforcement Officer shall issue a building or use permit within ten (10) working days after being notified of such approval.
 - b. Approvals or denials. In all other cases, the Code Enforcement Officer shall within such period of ten (10) working days approve or deny such applications for a permit in accordance with whether or not such proposed building, structure or use complies with this Ordinance.
 - c. Notification. The Code Enforcement Officer shall inform the applicant in writing of any actions taken by him regarding the permit application. If such application is

rejected by the Code Enforcement Officer, such notice to the applicant shall contain a brief statement of the findings of the Code Enforcement Officer and the reasons for his rejection. No permit shall be issued except to the owner of record or his or her authorized agent.

7. Applicant Responsibility

- a. Posting. The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from the public street or road.
 - b. Appeals. Appeals from decisions of the Code Enforcement Officer may be taken to the Board of Appeals in accordance with the provisions of Article 11 Section B.
8. Duration of Permit. All building permits shall be void unless a substantial start is made in construction or in the use of the property within 180 days of the date of the permit. Construction authorized by a permit and which is not completed within two (2) years of the effective date of the permit shall not continue until another permit is obtained.
9. Proof of Compliance. No building or property shall be occupied until a Certificate of Occupancy has been issued by the Code Enforcement Officer. The Code Enforcement Officer shall issue said certificate after proper examination shows that all work performed, including installation of a functional septic disposal system, is in compliance with the provisions of all State and local codes.

D. Enforcement

1. Violations. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
2. Inspections. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
3. Records. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis in areas subject to Article 7, Shoreland Zoning, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.
4. Legal Actions. When the above action does not result in the correction or abatement of the violation, the Board of Selectmen, upon notice from the Code Enforcement Officer, may institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Board of Selectmen, or their authorized agent, may enter into administrative consent agreements for

Administration and Enforcement

- the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
5. Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. § 4452.
 6. Violations of Article 8, Floodplain Management. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
 - a. Legal description. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - b. Ordinance violation. A clear and unequivocal declaration that the property is in violation of a cited State law or local law, regulation or ordinance;
 - c. Authority. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 - d. Notice. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
 - e. Statement. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE 3. LAND USE DISTRICTS

A. Districts Established

For the purpose of this Ordinance, the Town of Waldoboro is divided into the following districts:

Town-wide Districts

Downtown Business District
 Historic Village District
 Limited Commercial
 Industrial District
 Residential District
 Route 1 Commercial A District
 Route 1 Commercial B District
 Rural District
 Rural Village Business District
 Village District
 Wellhead Overlay Protection District

Shoreland Districts (see Article 7)

General Development I
 General Development II
 Limited Residential
 Resource Protection
 Stream Protection
 Commercial Fisheries/Maritime Activities

B. Land Use and Shoreland Zoning Maps

The location and boundaries of the above districts are hereby established as shown on the map entitled "Land Use Map of the Town of Waldoboro, Maine" approved by the voters June 16, 2005 and "Town of Waldoboro Shoreland Zoning Map" dated August 1, 2002, filed with the Town Clerk, which Maps are hereby made part of this Ordinance.

Shoreland areas as defined in Article 7 are supplemental to the Town-wide districts listed in Section A above and are subject to the provisions of Article 7 of this Ordinance, in addition to the provisions of the district in which they are located.

The Official Land Use Maps shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Location and Authority of Land Use Map

The official Land Use Map shall be located in the Town Clerk's office and shall be the final authority as to the current status of the land and water areas, buildings and other structures in the Town.

D. Uncertainty of District Boundaries

Land use district boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the center lines. When the Code Enforcement Officer cannot definitely determine the location of a district boundary by such center lines, by the scale of dimensions stated on the Land Use Map, or by the fact that it clearly coincides with a property line, the Code Enforcement Officer shall refuse action, and the Board of Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Land Use Map and the purposes set forth in all relevant provisions of this Ordinance.

E. Land Use Requirements.

Except as herein specified, no building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

F. Purpose of Districts

1. Downtown Business District. The intent of the Downtown Business District is to protect the downtown commercial area of Waldoboro by allowing commercial and residential uses in existing buildings or in new buildings that are consistent with the architecture of a 19th century New England village, as well as apartments, theaters, libraries, public uses and parking lots. In order to encourage compact, urban-type development, there are no lot size requirements.
2. Historic Village District. The purpose of the Historic Village District is to preserve the 19th century character of the area in accordance with the 1998 Waldoboro Comprehensive Plan. The intent is to allow residential use, home occupations and some businesses in existing or new buildings consistent with the historic architecture.
3. Industrial District. The intent of the Industrial District is to allow light industry/ manufacturing and heavy industry/manufacturing as defined.
4. Residential District. The purpose of the Residential District is to retain the rural character of Waldoboro and to protect residential property values by allowing agriculture, forestry, home occupations, and low density, single-family residential development. This district applies to land areas on the water sides of Routes 32 and 220 south of Waldoboro Village, areas of land within 400 feet of the landward side of Routes 32 and 220 south of Waldoboro Village and areas of land within 250 feet of great ponds not otherwise zoned Resource Protection.
5. Route 1 Commercial A District. The intent of the Route 1 Commercial A District, which applies to portions of Route 1, is to replace haphazard strip development with well-planned, attractive, well-landscaped development, to encourage the retention of open space areas, to require large setbacks from the edge of the road, and to minimize driveway openings onto Route 1. The intent of this district is to allow mixed residential/commercial uses, commercial uses, light industry/manufacturing, agricultural and forestry uses.
6. Route 1 Commercial B District. The intent of the Route 1 Commercial B District is to allow business and light industry/manufacturing development along Route 1 with fewer restrictions than in the Route 1 Commercial A District.
7. Rural District. The purpose of the Rural District is to retain the rural character of Waldoboro by allowing agricultural, forestry, home occupations, and light industrial uses. Low-density residential and related uses are permitted as consistent with the comprehensive plan. The purpose of this district is primarily to prevent inappropriate development of land where there are basically no public water and sewer utilities, and where the extension of such facilities is not economically feasible, to minimize the municipal cost of providing services to remote areas of the Town, to retain certain areas for non-intensive uses, and to retain areas for open space, such as natural land surrounding water bodies or land suitable for support of natural plant cover and wildlife, or land designated for recreational use. The intent of this district is also to allow rural-area commercial uses that may not be appropriate in other districts including saw mills, forestry, and other agriculturally-related businesses.

Manufactured home parks are permitted only within a two (2) mile radius of the intersection of Jefferson Street and U.S. Route 1.

8. Rural Village Business District. The intent of the Rural Village Business District is to encourage small scale, residentially compatible business activities in Waldoboro's historic rural crossroad neighborhoods.
9. Village District. The purpose of the Village District is to retain and protect the character of Waldoboro Village, exclusive of the Downtown Business District and the Historic Village District, and to provide for future growth consistent with current land development patterns. The intent is to allow single-family dwellings, two-family dwellings, home occupations, multi-family dwellings, municipal and institutional uses, churches, libraries and schools with minimum lot sizes ranging from 5,000 square feet to 80,000 square feet depending upon the availability of public water and sewer services.
10. Wellhead Overlay Protection District. The purpose of the Wellhead Overlay Protection District is to protect the public water supply in Waldoboro from land uses that pose a threat to the quality and/or quantity of ground water being extracted from the wells that serve the public water system.

The Overlay District imposes performance standards over, and in addition to, those required in the underlying district. All land uses permitted in the underlying districts shall be subject to the conditions, standards, and review requirements contained in Article 12, Wellhead Protection, of this Ordinance.

The Wellhead Overlay Protection District overlays portions of the following districts:

- Rural District
- Industrial District
- Rural Village District
- Stream Protection
- Limited Residential
- General Development

11. Shoreland Districts. The Shoreland Districts are intended to comply with the Mandatory Shoreland Zoning, 38 M.R.S.A. § 435-449 (see Article 7).
 - a. General Development I District. The General Development I District includes the following types of existing, intensively developed areas:
 - 1) Mix of activities. Areas of two (2) or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including, but not limited to, the following:
 - (a) Industrial activities. Areas devoted to manufacturing, fabricating or other industrial activities;
 - (b) Commercial activities. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and,
 - (c) Recreational activities. Areas devoted to intensive recreational development and activities, such as, but not limited to, amusement parks, race tracks and fairgrounds.

- 2) Patterns of uses. Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

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

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

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

- c. Limited Commercial District. The Limited Commercial District includes areas of mixed, light commercial and residential uses excluding the Stream Protection District, which should not be developed as intensively as the General Development District. This district includes areas of two (2) or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.
- d. Limited Residential District. The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts, or the Commercial Fisheries /Maritime Activities District.
- e. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland Zone exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development, or Water-dependent Commercial Maritime Activities Districts need not be included within the Resource Protection District:

- 1) Wildlife habitat. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W), that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a

surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river. Wetlands rated as "moderate" or "high" value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife by document entitled Conservation of Inland Fisheries and Wildlife Habitat, based on a wetlands inventory and assessment completed in 2006 by MDIF&W, include the wetlands listed below.

		Wetland ID	
Wetland ID #	Tax Map	#	Tax Map
lwwh030092	R10	lwwh030037	R17
lwwh200789	R8, R11	lwwh030083	R1, R2 R14, R15, R18,
lwwh030084	R11	lwwh030739	R19
lwwh030006	R3	lwwh030038	R15, R16, R18
lwwh030012	R17	lwwh030088	R15
lwwh030009	R4	lwwh030048	R14, R19
lwwh030045	R23	lwwh030047	R14, R19
lwwh030057	R21	lwwh030062	R14
lwwh030034	R23, R24	lwwh030074	R6, R15
lwwh030031	R3, R4	lwwh030077	R6, R9, R13, U7
lwwh204320	R11	lwwh030040	R13
lwwh204158	R19, R20	lwwh204172	R7
lwwh030036	R18	lwwh030042	R12
lwwh204160	R18	lwwh030050	R12
lwwh030010	R17	lwwh030075	R12, R13
lwwh030041	R16, R17, U14		

- 2) 100-Year floodplains. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps.
- 3) Slopes. Areas of two (2) or more contiguous acres with sustained slopes of twenty percent (20%) or greater.
- 4) Wetlands. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- 5) Severe bank erosion. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

- f. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, excluding those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond, river or saltwater body, or within 250 feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.
- g. The Commercial Fisheries/ Maritime Activities District. The Commercial Fisheries/ Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Article 7, Section E and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:
 - 1) Winds. Shelter from prevailing winds and waves;
 - 2) Slopes. Slope of the land within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line;
 - 3) Water depth. Depth of the water within one hundred and fifty (150) feet, horizontal distance, of the shoreline;
 - 4) Support facilities. Available support facilities including utilities and transportation facilities; and,
 - 5) Upland uses. Compatibility with adjacent upland uses.

G. Schedule of Uses

1. Activity categories. The various land uses contained in the matrix are organized into the following activity classifications: Open Space; Residential; Commercial; Industrial; Institutional; and Miscellaneous.
2. Symbols used in schedule of uses. The following symbols contained in the Schedule of Uses have the following meanings:
 - Yes - No permit required (must comply with land use standards)
 - CEO - Permitted uses which require a building permit or other type of permit from the Code Enforcement Officer
 - PB - Uses requiring approval from the Planning Board in accordance with the requirements of Article 6 of this Ordinance
 - 1,2, etc. - Numbers adjacent to letter symbols refer to notes at the end of the Schedule of Uses which contain additional requirements.
 - Blank - Not permitted
3. Compliance with performance standards. All uses which are permitted must occur and be maintained in compliance with the applicable requirements of the performance standards listed in Articles 4 and 5.
4. Matrix

	Rural	Residential	Rural Village Business	Village	Historic Village	Downtown Business ¹	Route 1 Commercial A	Route 1 Commercial B	Industrial
*** Open Space and Rural Uses									
Accessory Uses/Structures to Permitted Uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Agriculture and Related Businesses	Yes	Yes	Yes	CEO	CEO		Yes	Yes	
Aquaculture	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Borrow Pits in Excess of 1,000 cubic yard (500 cubic yard Topsoil)	CEO	PB					CEO	CEO	CEO
Cemeteries	PB	PB	PB	PB	PB	PB	PB	PB	PB
Farm Operation, Small Scale	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes
Forestry	Yes	Yes	Yes				Yes		
Horse Operation, Commercial	CEO						PB	PB	
Livestock Operation	CEO						PB	PB	
Non-profit Outdoor Conservation and Recreation Uses	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Passive Recreation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Resource Extraction	PB	PB	PB						
Storage of Fishing, Clamming and Similar Gear	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
*** Residential Uses									
Accessory Uses/Structures to Permitted Uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	
Bed & Breakfast	CEO	CEO	CEO	PB	PB	CEO		PB	
Child Care Minor	CEO	CEO	CEO	CEO	CEO	CEO		CEO	
Community Living Facility	CEO	CEO	CEO	CEO	CEO	CEO			
Congregate Care Facility			PB	PB	PB	PB			PB
Expansion of an Existing Manufactured Home Park	PB	PB	PB	PB	PB	PB	PB	PB	
Home occupation ⁽⁸⁾	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	
Individual Campsite	CEO	CEO							
Lodging & Boarding Home		PB	PB	PB	PB	CEO		PB	
Manufactured Home Park	PB			PB					
Mixed Use Dwelling	CEO		CEO	CEO	CEO	CEO	CEO	CEO	
Multi-family Dwellings (3 or more)			PB	PB	PB	PB			
Open Space / Cluster Subdivisions	PB	PB	PB	PB	PB	PB	PB	PB	
Single-family Dwelling	CEO	CEO	CEO	CEO	CEO	CEO			
Single-wide Manufactured Home	CEO	CEO							
Subdivisions	PB	PB	PB	PB	PB	PB	PB	PB	
Two-family Dwelling	CEO	CEO	CEO	CEO	CEO	CEO			
*** Commercial Uses									
Accessory Uses/Structures to Permitted Uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Adult Business Establishment / Entertainment							PB	PB	
Artist / Crafts / Workshop Studio	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	

Site Plan and Subdivision Review

	Rural	Residential	Rural Village Business	Village	Historic Village	Downtown Business ¹	Route 1 Commercial A	Route 1 Commercial B	Industrial
Auction Barn			PB			PB	PB	PB	PB
Auto Graveyard / Junkyard	PB								
Barber, Beauty Shop	PB		CEO	CEO	CEO	CEO	CEO	CEO	
Boat Building and Repair	PB						PB	PB	CEO
Building Supply Outlet						PB	PB	PB	
Campground and Tenting Ground	PB						PB		
Catering	PB	PB	CEO	PB	PB	CEO	CEO	CEO	CEO
Child Care Facility	PB	PB	CEO	PB	PB	CEO	CEO	CEO	
Clubs			PB	PB	PB	CEO	PB	PB	
Construction Services	PB		PB				PB	PB	PB
Convenience Store with Fuel Sales						PB	PB	PB	
Convenience Store without Fuel Sales			PB			CEO	PB	PB	
Cottage Industries	PB					CEO			CEO
Drive-through Restaurant							PB	PB	
Farm, Garden, Commercial	PB		PB				PB	PB	
Farm Stands	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	
Farmer's Market	CEO		CEO	CEO	CEO	CEO	CEO	CEO	
Financial Institution/Bank			PB	PB	PB	CEO	PB	PB	
Fuel Storage / Distribution							PB	PB	
Funeral Home				PB	PB	PB	PB	PB	
Golf Course, Driving Range	PB						PB	PB	
Hotel or Motel/Overnight Cabin	PB		PB			CEO	PB	PB	
Kennels, Commercial	PB						PB	PB	
Kiosks			CEO			CEO	CEO	CEO	CEO
Laundromat, Dry Cleaners			PB			PB	PB	PB	
Marina	PB	PB	PB			CEO		PB	
Medical Marijuana Dispensary							PB		
Medical Office			PB	PB	PB	PB	PB	PB	
Methadone Clinic							PB		
Minor Commercial Additions	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Museums and Galleries	PB	PB	PB	PB	PB	CEO	CEO	CEO	
Neighborhood Convenience Store			PB	PB		CEO			
Nursery, Greenhouse	PB		PB	PB	PB	PB	CEO	CEO	PB
Office			CEO	PB	PB	CEO	PB	PB	PB
Parking Lots	PB	PB	CEO	PB	PB	CEO	CEO	CEO	CEO
Printing, Copy Center			PB	PB	CEO	CEO	PB	PB	PB
Recreational Facility	PB		PB	PB		PB	PB	PB	PB
Recycling Center							PB	PB	PB
Redemption Center			CEO				CEO	CEO	
Research / Lab Facilities						PB	PB	PB	PB
Restaurant			PB	PB	PB	CEO	PB	PB	

	Rural	Residential	Rural Village Business	Village	Historic Village	Downtown Business ¹	Route 1 Commercial A	Route 1 Commercial B	Industrial
Retail Sales			PB	PB	PB	CEO	PB	PB	CEO
Self-storage Units, Commercial							PB	PB	
Signs	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Shopping Centers							PB	PB	PB
Theaters			PB	PB	PB	CEO	PB	PB	
Vehicle Sales less than 15 Vehicles	CEO		CEO			CEO	CEO	CEO	
Vehicle Sales more than 15 Vehicles						PB	CEO	CEO	
Vehicle Service	PB		PB			PB	CEO	CEO	CEO
Veterinary Clinic	PB		PB				PB	PB	PB
Wireless Telecommunications	PB						PB	PB	PB
Wholesale Business			PB			PB	PB	PB	PB
Wood Working			PB			PB	CEO	CEO	CEO
*** Industrial Uses									
Accessory Uses/Structures to Permitted Uses	PB					PB	PB	PB	PB
Boat Storage, Commercial	PB	PB					PB	PB	PB
Factory Farms	PB								
Firewood Processing, Commercial	PB	PB					PB	PB	PB
Industrial							PB	PB	PB
Light Industrial	PB		PB			CEO	CEO	CEO	CEO
Sawmill	PB						PB	PB	PB
Trucking Terminals							PB	PB	PB
Warehousing							PB	PB	PB
*** Institutional Uses									
Accessory Uses/Structures to Permitted Uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Church		PB	PB	PB	PB	PB	PB	PB	
Civic Service Facilities, Clubhouses			PB	PB	PB	PB	PB	PB	
Community Service Organization			PB	PB	PB	PB	PB	PB	
Public and Private Schools	PB			PB	PB	PB	PB	PB	
Municipal Buildings and Uses	PB	PB	PB	PB	PB	PB	PB	PB	PB
Municipal Solid Waste Facility	PB								PB
Hospitals, Nursing and Convalescent Homes and Commercial Schools				PB	PB	PB	PB	PB	
Public Buildings and Uses other than Municipal				PB	PB	PB	PB	PB	PB
Social and Fraternal Organizations			PB	PB	PB	PB	PB	PB	
*** Miscellaneous									
Accessory Uses/Structures to Permitted Uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Essential Services	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Essential Service Buildings	PB	PB	PB	PB	PB	PB	PB	PB	PB

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	Rural	Residential	Rural Village Business	Village	Historic Village	Downtown Business ¹	Route 1 Commercial A	Route 1 Commercial B	Industrial
Signs	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Uses Similar to Allowed Uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Uses Similar to Uses Requiring CEO Permit	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Uses Similar to Uses Requiring PB Permit	PB	PB	PB	PB	PB	PB	PB	PB	PB

- (1) Manufactured home parks proposed in the Rural or Village Districts are only allowed if located within a two (2) mile radius of the intersection of Jefferson Street and U.S. Route 1
- (2) Single-wide manufactured homes proposed in the Village, Route One Commercial A, or the Route One Commercial B Districts are allowed only in manufactured home parks in effect as of the effective date of this Ordinance or in permitted expansions of those manufactured home parks
- (3) Uses proposed in a Shoreland District are also subject to the requirements contained in Article 7, Shoreland Zoning, Subsection E, Table of Land Uses.
- (4) A permit is needed for structures over 100 square feet outside the shoreland zone and all structures within the shoreland zone
- (5) Uses listed as industrial are prohibited from that part of the Industrial District within 300 feet of the Medomak River downstream from Main Street
- (6) Any Activity proposed within the Wellhead Overlay Protection District shall comply with the applicable requirements of Article 12 of this Ordinance. The Waldoboro Land Use District Map shall be consulted to determine the Wellhead Overlay Protection District boundaries.

H. Schedule of Dimensional Requirements

All structures and uses shall meet or exceed the following minimum dimensional requirements. Footnotes on some dimensional requirements refer to notes at the end of the schedule which contain additional requirements.

	Rural	Residential	Rural Village Business	Village	Historic Village	Downtown Business	Route 1 Commercial A	Route 1 Commercial B	Industrial
Minimum Lot Size (sq. ft.)	80,000	80,000			None	None	80,000		80,000
Public Water & Sewer	-	-	5,000	5,000			-	5,000	-
Public Sewer Only	-	-	20,000	20,000			-	20,000	-
Public Water Only	-	-	40,000	40,000			-	40,000	-
No Public Water or Sewer	-	-	80,000	80,000			-	80,000	-
Road Frontage (ft.)	200	200			75	None	400		200
Public Water & Sewer	-	-	50	50			-	75	-
Public Sewer Only	-	-	75	75			-	100	-
Public Water Only	-	-	100	100			-	125	-
No Public Water or Sewer	-	-	150	150			-	150	-
Shore Frontage (ft.)	200	200	200	200	200	200	200	200	200
Road Setback (ft.)	75	75	25	25	25	None	100	25	150
Side, Rear Setbacks (ft.)	30	30	15	15	15	None	30	15	30
Max. Lot Coverage	40%	40%	50%	50%	50%	100%	70%	70%	80%
Max. Building Height (ft.)	42	42	42	42	42	42	42	42	42

Other Dimensional Requirements:

1. For multiple commercial uses, 80,000 square feet and 400 feet of road frontage and 100 feet setback for each use provided that developments which retain at least 50% of the frontage and lot area as open space and provide shared driveways no closer than 600 feet apart and/or a frontage road, the lot size is 80,000 square feet for the first use and 10,000 square feet for each additional use, the frontage is 400 feet for the first use and 50 feet for each additional use, and all buildings are set back at least 100 feet from the edge of the traveled way, but not within the right-of-way.
2. Lots for some utility installations such as pump lifts, transformer yards, telephone relays, etc. do not have to meet the minimum lot size.
3. Road setback is measured from the edge of the traveled way, but not within the right-of-way.
4. The minimum lot size requirement shall be met for each dwelling unit located on a parcel of land with the following exception: a duplex shall be subject to the same minimum lot size requirement as a single-family dwelling. By way of illustration, in the Rural District a single family dwelling would require 80,000 square feet, a duplex would require 80,000 square feet, and two separate dwellings would require 160,000 square feet. Each separate dwelling on a single lot requires the net developable acreage as required by this Ordinance.
5. The minimum road setback of principal structures in the Rural Village, Village, and Historic Village Districts where buildings have traditionally been sited closer to the road may be reduced to the average road setback of existing principal buildings located within 500 feet and which front on the same road.
6. Notwithstanding other provisions of this ordinance, where no other feasible alternative exists, a handicapped ramp may be added to an existing building closer than the required setbacks, provided that the applicant is a disabled person, that the property is to be used by persons with disabilities, as defined by the Americans with Disabilities Act (ADA); or that the property is a place of "public accommodation"; and that the design of the access structure conforms with ADA guidelines.

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ARTICLE 4. GENERAL PERFORMANCE STANDARDS

A. Air & Water Pollution

Will not result in undue water or air pollution on and off site.

1. In making this determination the Planning Board shall at least consider: the elevation of land above sea level and its relation to flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and waste water resources rules and regulations.
2. No emission of dust, ash, smoke or other particulate matter or gasses and chemicals shall be allowed which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries, or which fails to meet or cannot meet the standards set by the Maine Department of Environmental Protection.

B. Buffer Areas

No industrial or commercial buildings or uses shall be established in, or about, a residential use, unless a landscaped buffer strip is provided to visually screen the uses. Where no natural vegetation can be maintained due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, commercial boat storage, vehicle parking, mineral extraction, waste collection, and disposal areas. Where a potential safety hazard to small children would exist, physical screening/barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to ensure continuous year round screening.

The following standards apply to buffer strips, screening and landscaping required under this Ordinance:

1. Buffer strips. Buffer strips shall be required of the following widths for the following areas and/or purposes:
 - a. Protect water bodies. Along any water body within or adjacent to the project where the Planning Board determines it desirable and necessary to protect such water bodies from sedimentation and pollution: Such buffer strips shall be a minimum of seventy-five (75) feet in width or such greater width which in the judgment of the Planning Board may be necessary to protect water bodies from sedimentation and pollution.
 - b. Buffer strip on adjacent lot. If there is a buffer strip on the adjacent lot and the applicant for Site Plan Approval provides the Planning Board with some form of guarantee from the abutter acceptable to the Board that the adjoining buffer strip will remain undeveloped, the Planning Board may reduce the required buffer strip by the width of the encumbered adjoining buffer strip.
 - c. Route 1 buffer. A vegetative buffer, 15 feet deep, as measured from the front

property line, shall be provided along Route 1 for all new commercial developments and for the redevelopment of existing commercial properties. Parking shall be prohibited within this buffer strip.

- d. Incompatible uses. Along any property line, where the Planning Board determines the adjacent uses are incompatible, to shield incompatible uses from one another. Such buffer strips shall be a minimum of twenty-five (25) feet in width and such additional width which in the judgment of the Planning Board may be necessary to shield incompatible uses from ordinary view. In determining incompatible uses, the Planning Board shall consider whether the intensity of uses on the site in question would cause an undue loss of "quiet enjoyment" upon an adjacent property.
 - e. Visual impacts. Along any property line, where the Planning Board determines it desirable to minimize the visual impact on adjoining traveled ways and properties of uses including, but not limited to, the following: exposed storage and service areas, sand and gravel extraction operations, utility buildings and structures, automobile salvage and junkyards, parking areas, garbage collection areas, and loading and unloading areas. Such buffer strips shall be consistent with setback requirements.
 - f. Buffering of residential uses. Any lot within the Urban Compact line (see Appendix A) of the community that is used for nonresidential or multifamily residential purposes shall have a landscaped buffer on any property line that abuts a residential use or residentially zoned lot. The width of the buffer may vary depending on the treatment of the area. A buffer with dense planting, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width.

In all residential settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading or storage areas should be screened by dense planting, berms or a combination thereof.
2. Screening. Screening within the required buffer strips, in the form of natural or man-made barriers, existing vegetation or new plantings, if suitable existing vegetation and natural features do not exist, is required as follows:
- a. Natural features. Natural features in buffer strips shall be maintained wherever possible. When natural features such as topography, gullies, stands of trees, shrubbery, and/or rock outcrops do not exist or are insufficient to screen structures and uses from the view of abutting properties and, where applicable, public roadways, other types of buffers shall be provided to supplement the existing features.
 - b. Vegetation variety. All buffers that contain vegetation shall provide for a variety and mixture of landscaping. The variety shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, season, textures, shapes, sizes, blossoms and foliage. Planted vegetation shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover, the species of which shall be well-suited to the Waldoboro area and approved by the Planning Board.
 - c. Vegetation standards. Where planting is required, as determined by the Planning Board, at least one (1) shade tree at least six (6) feet in height and at least two and a half (2 ½) to three (3) inches in diameter, measured at a point four (4) feet above finished grade level, shall be planted no nearer than five (5) feet to any lot line for

each three hundred (300) square feet of required landscaped area; and at least one (1) deciduous shrub or evergreen at least eighteen (18) inches above finished grade level, shall be planted for each two hundred (200) square feet of finished landscaped area.

- d. Fencing. Where fencing is provided, it shall be no more than six (6) feet in height, and shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties, except that the Planning Board may require up to an eight (8) foot high fence to separate incompatible uses.
3. Maintenance of the Buffer Areas
 - a. Maintenance. All landscaped buffer areas shall be maintained in a healthy, neat and attractive condition by the owner. Maintenance shall include, but not be limited to, watering, fertilizing, weeding, cleaning, pruning, trimming, spraying and cultivating.
 - b. Replacements. Vegetation which dies shall be replaced as quickly as possible and within one (1) growing season. Replacement plantings shall conform to the original intent of the landscape design.
 4. Landscaping

The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses. All parking lots shall be landscaped along the property boundaries with shrubbery, trees, and other landscape materials. Parking lots shall provide a two and one-half inch (2½") caliper shade tree per twenty (20) parking spaces (six (6) trees per acre) located throughout the lot.

C. Construction Standards

All construction must meet the State adopted codes as follows:

1. The 2002 National Electrical Code, (NEC) published by the National Fire Protection Association.
2. The 2003 NFPA 101 Life Safety Code, published by the National Fire Protection Association.
3. MUBEC (Maine Uniform Building and Energy Code).
4. The Maine State Plumbing Code.

D. Electrical Disturbances

No use or activity shall be permitted which creates electrical disturbances (electromagnetic radiation) that affect the operation of any equipment, such as radio or television interference, or has known adverse effects on human health beyond the boundaries of the site.

E. Historic Village District, Architectural Standards

The intent of these regulations is to allow uses as permitted in the Schedule of Uses in existing or

new buildings consistent with the historic architecture of the District.

1. Minimal alteration. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
2. Architectural features. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. Historical reference. All buildings, structures, and sites shall be recognized as products of their own time.
4. Significance. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Stylistic features. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
6. Contemporary design. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the scale and character of the property, neighborhood, or environment.
7. Form and integrity. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
8. Visual compatibility. New and existing buildings and structures that are moved, reconstructed, materially altered, or repaired shall be visually compatible with the neighborhood.

F. Hydrogeologic Assessment of Groundwater Impacts

1. Groundwater Impact Analysis. A groundwater impact analysis prepared by a groundwater hydrologist shall be required for projects involving on-site water supply or sewage disposal facilities with a cumulative capacity of two thousand (2,000) gallons or more per day.
2. Assessment contents. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - a. Map. A map showing the basic soils types.
 - b. Depth to water table. The depth to the water table at representative points throughout the development site.
 - c. Drainage conditions. Drainage conditions throughout the development site.
 - d. Groundwater quality. Data on the existing groundwater quality, either from test wells on the development site or from existing wells on neighboring properties.

- e. Impacts on groundwater. An analysis and evaluation of the impacts of the development on groundwater resources. In the case of residential developments, the evaluation shall, at a minimum, project nitrate-nitrogen concentrations. For development within the watershed of a lake, projections of phosphate impacts shall also be calculated.
 - f. Disposal systems and wells. The location of any subsurface wastewater disposal systems and drinking water wells within the development and within 200 feet of the subdivision boundaries.
3. Potential contamination sources. Projections of groundwater quality shall be made at any wells within the development site and at the development's boundaries or at a distance of 500 feet from potential contamination sources, whichever is a shorter distance.
 4. Drought conditions. Projections of groundwater quality shall be based on the assumption of drought conditions (assuming sixty percent (60%) of annual average recharge from precipitation).
 5. Increase of contaminant concentration. No development shall increase any contaminant concentration in the groundwater to more than one half of the Primary Drinking Water Standards. No development shall increase any contaminant concentration in the groundwater to more than the Secondary Drinking Water Standards.
 6. Improvement or treatment. If existing groundwater quality already exceeds the primary standards, and the development is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.
 7. Ambient concentration. If existing groundwater quality already exceeds the secondary standards, the development shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
 8. Deed restrictions. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.
 9. Lot size formula. The Planning Board shall require lot sizes larger than required by Article 3, where completion of the following formula indicates such lot sizes or densities are necessary in order to meet the standards above.

$d = (q)(C \text{ nitrate} - C_b) + (cs)(q_s)$ where:

- d is the allowable housing density in dwellings per acre
- q is the rate of natural groundwater recharge, averaged over the year in gpm/acre; some representative numbers, based on soil types are:

glaciomarine clay-silt	0.11-0.23
thick silty clay	0.23
thin soil over rock	0.33
thin till over rock	0.46
sandy glacial till	0.57
glaciomarine fine sands	0.91
raised beach deposits	1.16

sand and gravel

1.16

- C nitrate is the resultant concentration of nitrate-nitrogen in groundwater as a result of subsurface sewage disposal systems, 10 mg/l.
- C b is the background concentration of nitrate-nitrogen in groundwater; if records are not available, assume 0.25 mg/l.
- C s is the nitrate-nitrogen concentration in typical septic tank discharge, 30 mg/l.
- q s is the average leach field discharge rate per dwelling, which is equal to 70% of 300 gallons per day or 0.15 gal/min.

G. Lighting and Glare

1. Lighting. The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours, if such use is contemplated. Lighting may be used which serves security, safety and operational needs. The lighting shall not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. Direct or indirect illumination shall not exceed five-tenths (0.5) foot-candles upon abutting residential properties.
2. Hazards. The Code Enforcement Officer may require a light source to be modified or removed even though it may have been approved by the Planning Board if such light source causes a hazard.

H. Net Developable Acreage Calculation

The net developable acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:

1. Unavailable areas. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
2. Floodway. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency (FEMA).
3. Unsuitability. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 - a. slopes greater than a rise of one (1) foot vertical in four (4) feet horizontal
 - b. wetland soils
 - c. Fifty percent (50%) of the poorly drained soils, unless the applicant can demonstrate specific engineering techniques to overcome the limitations to the satisfaction of the Planning Board.
4. Rights-of-way. Portions of the lot subject to rights-of-way, not including driveways with a thirty (30) foot right-of-way serving up to two (2) back lots.
5. Resource protection. Portions of the lot located in the resource protection zone.

6. Surface waters. Portions of the lot covered by surface waters.
7. The Developable area shall have a minimum width and a minimum depth equivalent to ½ the required frontage except that one dimension may be decreased by up to 25% as long as the other dimension is increased by the equivalent amount.

I. Noise

The development will control noise levels such that it will not cause unreasonable interference with the use and enjoyment of neighboring properties.

1. Sound pressure levels. The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity shall be limited by the time period and land use which it abuts, as listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source.

**Sound Pressure Level Limits
Using the Sound Equivalent Level of One Minute (leq 1)
(Measured in dB(a) Scale)**

	<u>7:00 a.m. - 10:00 p.m.</u>	<u>10:00 p.m. - 7:00 a.m.</u>
Residential	55	45
Commercial	70	60
Industrial	70	60

2. Sound meter. Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI SI 4-1961) "American Standard Specification for General Purpose Sound Level Meters."
3. Construction activities. No person shall engage in construction activities on a site abutting any residential use between the hours of 10:00 p.m. and 7:00 a.m. Otherwise, the following activities shall be exempt from these regulations:
 - a. Construction and maintenance activities. Sounds emanating from construction and maintenance activities conducted between 7:00 a.m. - 10:00 p.m.
 - b. Safety and warning devices. Sounds emanating from safety signals, warning devices, emergency pressure relief valves and other emergency activities.

J. Parking and Loading

Note: The following standards shall not apply in the Downtown Business District nor to home occupations.

1. General. A use shall not be extended, and no structure shall be constructed or enlarged, unless off-street automobile parking space is provided in accordance with the following requirements.
 - a. No backing onto street. Parking areas with more than two (2) parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.
 - b. Joint use. The joint use of a parking facility by two (2) or more principal buildings or uses may be approved by the Planning Board where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of

such establishments.

- c. Certificate of occupancy. Parking spaces shall be provided as required and made available for use prior to the issuance of the certificate of occupancy.

2. Additional Requirements for Commercial and Industrial Establishments

- a. Minimize traffic congestion. Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and to avoid generating traffic on local access streets of a primarily residential character.
- b. Visibility. All driveway entrances and exits shall be kept free from visual obstructions between three (3) and seven (7) feet above street level for a distance of twenty-five (25) feet measured along the intersecting driveway and street lines in order to provide visibility for entering and leaving vehicles.
- c. Loading facilities. Loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers for loading or storage shall not be located upon any Town way.
- d. Landscaped area. Off-street parking and loading spaces, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than six (6) feet in height along exterior lot lines adjacent to residential properties, except that driveways shall be kept open to provide visibility for entering and leaving. No off-street parking and loading shall be permitted within the front setback or any setback adjoining a public street, except as specifically authorized in this Ordinance.

3. Parking Lot Design Criteria (Not applicable to single-family dwellings and duplexes)

- a. Vehicular Entrance and Exit.
 - 1) Clear identification. Entrances and exits should be clearly identified by the use of signs, curb cuts, and landscaping.
 - 2) Design standards. Entrance/exit design shall be in conformance with the standards for Street Access.
- b. Interior Vehicular Circulation.
 - 1) Uninterrupted traffic movement. Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.
 - 2) Identification of circulation patterns. Enclosures, such as guardrail, curbs, fences, walls, and landscaping, should be used to identify circulation patterns of parking areas and to restrict driving movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.
 - 3) Vehicle stacking. Entrance/exits shall be designed to allow adequate stacking of vehicles without blocking interior vehicle circulation lanes.
- c. Parking.

- 1) Access to stalls. Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.
- 2) Movement to and from spaces. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- 3) Pedestrian access. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.
- 4) Setbacks. All parking spaces and access drives shall have at least eight (8) feet from any side or rear lot line, except for the additional requirements in buffer yards.
- 5) Parking stalls. Parking stalls and aisle layout shall conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'- 0"		18' - 5"	24'- 0"
60°	8'- 6"	10'- 5"	16' - 0"	one way only
45°	8'- 6"	12'- 9"	17' - 5"	one way only
30°	8'- 6"	17'- 0"	12' - 0"	one way only

- 6) Parking stripes. In paved parking area painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of 4" in width. Where double lines are used, they should be separated a minimum of 1'0" on center.
- 7) Directional arrows. In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.
- 8) Bumpers. Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.
- 9) Number required. Off-street parking spaces shall be provided to conform to the number required in the following schedule:

Land Use	Minimum Required Parking (du = dwelling unit; s.f. = square feet)
Art gallery	6.5/1000 s.f.
Auto sales	5 plus 1/3000 s.f. indoor or outdoor display
Auto/truck repairs	5/service bay
Bank	4/1000 s.f.
Barber shop	3/chair
Beauty shop	3/chair
Bed & Breakfast	1/guest room
Campground	1/campsite
Child care	1/four children licensed for care
Church	1/two seats
Club, lodge	1 space per every 4 members
Convenience store	4/1000 s.f.
Convenience store with gas pumps	4/1000 s.f.; ½ the service spaces at pump islands may be used to meet not more than ½ the total parking required.
Fitness center, health spa	5/1000 s.f.

Minimum Required Parking (du = dwelling unit; s.f. = square feet)

Land Use	
Funeral home	1/100 s.f.
Hardware, home improvements	3/1000 s.f.
Hospital and medical care facility	1 space for every 3 beds and every 2 employees on maximum shift
Industry, light	1.5/1000 s.f.
Industrial park	1.5/1000 s.f.
Library	6.5/1000 s.f.
Manufacturing	1.5/1000 s.f.
Medical Marijuana Dispensary	4/1000 s.f.
Methadone Clinic	4/1000 s.f. plus 3 additional spaces per dispensing room
Motel, hotel, inn	1/rm and for each employee on the largest shift
Museum	6.5/1000 s.f.
Nursing home	1/three rms
Office, general	3/1000 s.f.
governmental	4/1000 s.f.
medical, dental	4/1000 s.f.
Residential	2/du
Apartments, condominiums	2/du
Senior citizen, multi-family	1/du
Restaurant	9/1000 s.f. or 1/three seats
Fast food	14/1000 s.f. or 1/two seats
Drive-in	To be determined on a case-by-case basis
School, Primary	1.5 spaces per classroom
Secondary	8 spaces per classroom
Post-secondary	1 space for each student and 1 space for each faculty and staff member
Services	4/1000 s.f.
Shopping center	4/1000 s.f.
Sports club	5/1000 s.f.
Store, retail	4/1000 s.f.
Theater, auditorium, public assembly	1 space per 3 seats based on maximum seating capacity
Warehousing	1/1000 s.f.
Other uses not listed	sufficient spaces to accommodate normal parking demand as determined by the Planning Board

NOTES

- a) Fractional Calculations. Where the calculation of the aforementioned parking spaces results in a fractional part of a complete parking space, the parking spaces required shall be construed to be the next highest number.
- b) Minimum Standards. The above are minimum standards, and additional parking spaces shall be required if necessary to provide off-street parking.
- c) Gross Floor Area. Where floor space is to be used in calculating the number of required parking stalls, gross floor area shall be used unless otherwise noted.

K. Phosphorus Control

The introduction of excessive amounts of phosphorus into lakes and ponds has been identified as a significant threat to water quality. The long-term effects of the proposed development will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed development. The following provisions are applicable to all projects requiring site plan or subdivision review that are located within the watershed of a great pond.

1. For all new principal structures, expansions of existing structures which increase the floor area by 30% or more over the lifetime of the structure, new accessory structures of 300 square feet or more and new or enlarged roads and driveways of 300 square feet or more on lots, phosphorus export from such development shall be equal to or less than that which is calculated using the methods established by the Maine Department of Environmental

Protection and described in Section 4.2.1 of Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992). The following phosphorus allocation factors shall be applicable.

Watershed	Water Quality As Established by MDEP	Phosphorus Allocation			Future Area To Be Developed (b)	Per Acre Phosphorus Allocation (c)
		Protection Level (From MDEP)	Phosphorus Coefficient (a)	Acceptable Increase In Phosphorus		
Duckpuddle Pond	mod-sensitive	M	32.08	1.00	794	0.0404
Havener Pond	mod-sensitive	M	3.55	1.00	83	0.0426
Kalers Pond	mod-sensitive	H	4.36	0.75	50	0.0654
Little Medomak Pond	mod-sensitive	H	6.37	0.75	135	0.0354
Medomak Pond	mod-sensitive	M	11.70	1.00	384	0.0305
North Pond	mod-sensitive	M	1.80	1.00	24	0.0750
Pemaquid Pond	mod-sensitive	H	6.39	0.75	75	0.0639
Round Pond	mod-sensitive	M	1.76	1.00	31	0.0568
Sidensparker Pond	mod-sensitive	M	9.39	1.00	209	0.0449
Tobias Pond	mod-sensitive	M	0.19	1.00	4	0.0447
Unnamed Pond (d)	mod-sensitive	M	3.96	1.00	91	0.0434

Notes to Phosphorus Allocation Table

- a. Indicates the amount of additional phosphorus that, if exported from the watershed to the lake, will produce a 1 part per billion (ppb) increase in the lake's phosphorus concentration (lbs./ppb/year)
 - b. Assumes 15% of each watershed is undevelopable due to environmental considerations; 30% of the remaining acreage is likely to be developed over the next 50 years.
 - c. Amount of phosphorus each developed acre is allowed to export without violating water quality goals.
 - d. Drains to Sidensparker Pond
2. For all other accessory buildings, expansions of existing structures and expansions of existing roads and driveways, the applicant shall demonstrate that, by utilizing permanent vegetated buffers, limiting the clearing of vegetation and the size of the development area limiting impervious surfaces and directing runoff away from the affected water body, the potential for phosphorus export has been minimized.
 3. For all developments which require a building permit, the applicant shall demonstrate to the satisfaction of the Code Enforcement Officer that the existing septic system is functioning properly.

L. Refuse Disposal

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in a manner provided for by federal and State law and this Ordinance. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste if municipal services are utilized. If demolition debris, stumps, rocks, and brush are to be disposed of they shall be disposed on site if possible. If they are disposed of at a municipal site, the costs of such disposal shall be paid for by the developer.

The Planning Board shall consider the impact of particular industrial or chemical wastes or by-

products upon the Town's facilities (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and federal regulations. The Planning Board may require the applicant to specify the amount and exact nature of all industrial or chemical and hazardous wastes to be generated by the proposed operation.

M. Sanitary Provisions

Will provide for adequate sewage disposal.

1. Adequate soils. When not serviced by the public sewerage system, the approval of building permit applications shall be subject to presentation of a completed Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which evidences adequate soil conditions for subsurface wastewater disposal.
2. Common system. When two (2) or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.
3. Commercial or industrial waste. Industrial or commercial waste waters may be discharged to municipal sewers only and in such quantities and/or of such quality as to be compatible with municipal sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to municipal treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The disposal of industrial or commercial waste waters by means other than the municipal sewerage system shall comply with the laws of the State of Maine concerning water pollution. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the municipal system.
4. Medomak River discharges. Treated industrial waste discharges to the Medomak River shall be prohibited above head of tide.
5. Municipal sewage disposal. If the development will use more than 33-1/3% of the available excess capacity of any portion of the municipal sewerage collection system, treatment facility, and/or discharge permits, the developer shall pay for the replacement of the available excess capacity needed by the development.

N. Signs

For any signs located within Shoreland Zoning, Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts, see Article 7. F. 9.

1. Statement of Purpose and Legislative Intent

This Ordinance provides a comprehensive approach to sign management that is intended to be practical, fair and safe for everyone concerned. Signs exist to convey information to the general public. This Ordinance seeks to accomplish this purpose in the most efficient manner possible while recognizing the needs of Waldoboro's businesses, residents, and the public at large.

2. General Regulations

No sign may be erected, placed, established, painted, created, or maintained in the town of Waldoboro except in conformance with the standards, definitions, procedures, exemptions, and other requirements of this Ordinance.

- a. Illumination. No sign shall be illuminated with flashing, moving, or animated-type lights except those which offer essential services to the public such as the date, time, temperature, and weather conditions.
 - 1) In the Rural and Residential districts, all illuminated signs shall be turned off between the hours of 10:00 PM and 6:00 AM. Freestanding signs shall be lit from above by full cut-off fixtures (e.g., 'down-lighted'.)
 - 2) Interior-lit signs must utilize opaque background for lettering and logos.
 - 3) There shall be no interior-lit signs outside of the Route 1 Commercial B District and the Route 1 Commercial A District.
- b. Moving Signs. There shall be no moving signs or signs with moving parts.
- c. Off-premise Signs. No sign shall be located off the site of the lot on which the related services are located except as provided for in this Ordinance and except for directional signs. If a business does not own frontage on any public or private road, one (1) sign may be placed off-premise with permission of the landowner.
- d. Painted Signs. No sign shall be painted on a structure over the allowable size for that structure.
- e. Natural Features. No on-premise sign shall be permitted which is painted or drawn upon trees, rocks or other natural features. [Numerical address signs are permitted to be painted on rocks or other natural features with the size limitations described in section 2.f.] Signs mounted upon trees, rocks, or other natural features shall be considered freestanding signs and shall meet all requirements of this Ordinance.
- f. Only two numerical address signs are permitted per lot. The character height of numbers or letters contained in these sign types cannot exceed 18 inches. No directional sign shall be located on Main Street between Old Route One and Medomak Terrace or on Jefferson Street between School Street and Main Street or on Friendship Street between Main Street and Stahl Farm Road.
- g. Roof Signs. No sign shall be permitted on the roof of any building, except as specified in Article 4 Section N Part 5 a, Non-Conforming Signs.

3. Permits

- a. Permit Procedure. See Article 2. Administration and Enforcement.
- b. Calculation of the Sign Area. The area limitation for the size of the sign relates to one (1) of two (2) sides of the signboard, both sides of which may have on it the sign message. For example, a sign limited to twelve (12) square feet may have two (2) sides with the result that the sign message covers an area of twenty-four (24) square feet but only twelve (12) square feet would be visible at one time.
- c. Signs not requiring a permit

Site Plan and Subdivision Review

- 1) Government Signs. Signs of a duly constituted governmental body, a soil and water conservation district or regional planning district;
- 2) Legal Signs. Legal notices, identification, information, or directional signs erected or required by governmental bodies;
- 3) Private property parking. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter or commercial identification;
- 4) Garage sales. Yard and garage sale signs posted for less than seven (7) days;
- 5) Political Signs. Signs bearing political messages relating to an election, primary, or referendum, provided that these signs may not be placed within the right-of-way prior to six (6) weeks before the election, primary or referendum to which they relate, and must be removed by the candidate or political committee not later than one (1) week after the event.;
- 6) Signs of organizations. Signs erected by a public, civic, philanthropic, charitable, or religious organization announcing an auction, public supper, lawn sale, campaign or drive or other like event;
- 7) Fairs and expositions. Signs erected by fairs and expositions;
- 8) Common carriers. Signs located on or in the rolling stock of common carriers except those which are determined by the Code Enforcement Officer to be circumventing the intent of this Ordinance. Circumvention shall include, but not be limited to, rolling stock which is continuously in the same location or signs that extend beyond the height, width, or length of the carrier;
- 9) Registered motor vehicles. Signs on registered and inspected motor vehicles, except those which are determined by the code enforcement officer to be circumventing the intent of this Ordinance.
- 10) Circumvention shall include, but not be limited to, signs on motor vehicles which are continuously in the same location or signs that extend beyond the height, width, or length of the vehicle;
- 11) Handheld Signs. Handheld or similar signs not affixed to the ground or buildings, used by roadside vendors, with written permission of the property owner filed with the code enforcement officer. These signs must be located in such a way as to avoid obscuring the visual sight lines of vehicular traffic, and are limited to two (2) signs per lot;
- 12) Name Signs. Signs are allowed and may be used to convey the inhabitants' names, the property name, and safety and caution messages. Such signs shall not be placed on the roof of the building and shall be no larger than three (3) square feet;
- 13) Rentals. Rental vacancies may be advertised with a non-illuminated sign no larger than three (3) square feet. Such sign shall be displayed only during such times as the rental property is vacant;

- 14) Creative Architectural Design & Public Art shall not be considered signs if they:
- 15) Sale of real estate. The sale of real estate may be advertised by non-illuminated signs as follows:
 - (a) One (1) sign only. Each broker or person advertising the sale of property shall be permitted only one (1) sign which shall be no larger than six (6) square feet in area;
 - (b) Site plan review sales. Projects subject to site plan review and subdivision review are permitted one (1) sign, advertising the sale of the property, and such sign shall not exceed thirty-two (32) square feet in area;
 - (c) Architect/contractor sign. Projects subject to site plan review and subdivision review are permitted one (1) sign denoting the architect, engineer, contractor, owner, or funding agency when placed upon work under construction and not exceeding thirty-two (32) square feet in area. Upon completion of the construction one (1) sign identifying the project may be allowed, not to exceed fifteen (15) square feet in area.
- 16) "Open" Signs. Open signs and flags may be displayed only when the premises it advertises is open for business.
- 17) Special Events. A sign advertising or announcing a special community-wide event or activity conducted by, or sponsored by, or on behalf a unit of local government, a charitable organization, or a not-for-profit corporation. A special community-wide event or activity is one that seeks to attract donations, participants, or customers throughout the Waldoboro community. Signs shall not be erected more than 15 days prior to the event, and shall be removed within 48 hours after the event.
- 18) Sandwich Signs.
 - (a) Sandwich signs are limited to one (1) sign per business under separate ownership, operation, and control, and shall not exceed nine (9) square feet in area.
 - (b) Sandwich signs are permitted in the Downtown Business District, Village District, and Historic Village.
 - (c) Sandwich signs may be displayed only when the premises it advertises is open for business.
 - (d) Sandwich signs may not impede pedestrian, bicycle, snow removal, or vehicular access.
 - (e) Any sandwich sign found to impede the safe movement of pedestrians, bicycles, or vehicles may be ordered removed or relocated by the Code Enforcement Officer.
- d. Signs Requiring a Permit.
 - 19) On-premise Signs. Signs shall relate to the premises on which they are

located and shall only identify the occupant of such premises or advertise the service available within the premises.

20) Affixed to building. On each site there is permitted one (1) sign affixed to the exterior of a building. For size allowances see Section 4. General Standards and Sizes.

(a) Projecting Signs. If attached to the structure by way of a frame or bracket that overhangs a pedestrian walkway or public sidewalk, the sign shall not extend beyond five (5) feet from the structure face to which it is attached and shall have a vertical height clearance of eight (8) feet.

(b) Wall Signs. If the proposed sign is to be attached to the structure without the use of overhanging frames or brackets, the wall sign shall not extend or project more than twelve (12) inches from the structure surface. Cut-out letters should not project more than six (6) inches from the building wall.

21) Free-standing Signs. Freestanding signs are limited to one (1) per lot. For traffic safety, where vision may be obscured entering a public street, the whole of the sign or display elements of any free-standing sign shall be either below three (3) feet in height or above seven (7) feet in height above the street grade. A free-standing sign may be located within the front yard space, but shall not be closer than the edge of the right-of-way line on state or state-aid highways. On town or private roads, a sign shall not be closer than ten (10) feet from the edge of the traveled way. No sign shall be closer than twenty (20) feet to either of the lot side lines. For size allowances see Section 6. General Standards and Sizes.

Corner lots. Corner lots are allowed two (2) freestanding signs and two (2) attached signs provided that no more than one (1) freestanding and no more than one (1) attached sign face each traveled way.

4. Temporary Signs.

These signs must be located in such a way as to avoid obstructing pedestrian traffic or the visual sight lines of vehicular traffic.

a. Promotional Signs. Promotion signs, banners, streamers, or placards erected, suspended, posted, or affixed in any manner outdoors shall not be illuminated or exceed ten (10) square feet. These signs are limited to one (1) sign per business under separate ownership, operation, and control and shall not be in place for more than thirty (30) days per promotion. The 30-day limit per promotion shall not apply to window signs.

5. General Standards and Sizes of Signs per District

Numbers represent maximum square footage of sign, except the Height column, which represents maximum sign height in feet.

Districts	Free-standing			Affixed to Building	
	Size	Height	Multi-business	Wall*	Projecting
Village; Historic Village; and Downtown	16	6	Additional 2 for every additional business up to a max of 24	24	12

Rural; Rural Village Business; and Residential	32	12	NA	32	12
Route 1 Commercial A; Route 1 Commercial B; and Industrial	32	16	Additional 4 for every additional business up to a max of 64	100	12

* *Wall Signs may not exceed 10% of building front to which they are affixed.*

6. Administration and Enforcement

a. Non-conforming Signs

- 1) Any sign that does not conform to this Ordinance, but that was legally permitted as of November 5, 1997, and had received all necessary approvals at the time of its installation, shall be a pre-existing non-conforming use.
- 2) No pre-existing non-conforming sign shall be replaced with another non-conforming sign.
- 3) All lots with permanent, complete, and functioning non-conforming signs as of November 5, 1997 may continue to use and maintain one freestanding or roof mounted non-conforming and one attached non-conforming sign, and corner lots may continue to use and maintain two attached non-conforming signs. Any change in wording, lettering, size, shape, business name, or business use shall require subject sign be brought into compliance with the requirements of this Ordinance.

b. Maintenance and Repair

- 1) All signs, including their supporting structures and other components, shall be maintained to prevent rust, peeling or similar deterioration. Vegetation and landscaping adjacent to any sign shall be maintained in a neat condition and shall not interfere with legibility of the sign. Damaged signs shall be repaired or removed within ten (10) days.
- 2) The code enforcement officer may, after ten (10) days' notice, have any damaged or worn sign removed, repaired, or secured at the expense of the owner or lessee of the sign.
- 3) Any sign determined by the code enforcement officer to be a public safety hazard shall be removed, repaired, or secured to make it safe immediately upon notification by the code enforcement officer. If the owner or lessee of the sign does not take immediate action to make it safe, the code enforcement officer may secure or remove the sign at the expense of the owner or lessee.

c. Obsolete Signs. Any sign, or portions thereof, which advertises, identifies, or pertains to any activity no longer in existence at that location, shall be removed by its owner or lessee within 90 days from the date the activity ceased. If the sign is not removed, the code enforcement officer may have such sign removed at the expense of the owner or lessee. For the purposes of transition to a new business or new business owner, the sign may be painted over or otherwise covered while the business is sold or transferred to a new business.

d. Removal of Unlawful Signs

- 1) Notice to Remove. The owner of a sign that was or is unlawfully erected or maintained either prior to or after the effective date of this Ordinance shall be in violation of this Ordinance until the sign is removed. The owner of the sign shall remove the sign within thirty (30) days of receipt of a notice to remove by the code enforcement officer. If the identity of such owner is not known or reasonably ascertainable by the code enforcement officer, such notice may instead be sent to the owner of the land on which the sign is placed.
- 2) Abandoned Signs. If the owner fails to remove the sign as required, the code enforcement officer shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner.

Any sign that becomes abandoned or is located on a property which becomes vacant or relates to a business no longer operating on the property, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed abandoned (see definitions, "abandoned sign") and be removed in its entirety, including all sign structure and supporting members, by the owner of the sign or the owner of the premises.

- e. Waiver of Setback Requirements. The Board of Appeals is authorized to waive the location requirements only if the applicant for a sign permit can show unusual hardship due to conditions of topography, access, or other physical characteristics.

O. Soils

No activity shall be permitted in any area where the soil is rated severe or very severe for the proposed activity, according to the County Soil Survey of the U.S.D.A. Soil Conservation Service, unless satisfactory evidence is presented to the Code Enforcement Officer, within the application for a permit, that construction methods will overcome any pertinent slope and soil inadequacies.

P. Soil Erosion and Sedimentation Control

Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result either on or off site. If the development proposes to discharge storm water runoff at an increased rate compared to pre-application rate into a municipal storm water system, then the developer shall improve or pay for the improvement of such municipal storm water system so that it will have the capacity to handle such an increase plus 25% extra capacity. (Criteria in "Stormwater Management For Maine: Best Management Practices", as amended or revised, prepared by the Department of Environmental Protection, 1995, shall be followed.)

An erosion and sedimentation control plan shall be prepared for site plan review and subdivision applications in accordance with the "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices", latest revision. At a minimum, the following items shall be discussed and provided:

1. The name, address and telephone number of the applicant.
2. The name, address and telephone number of the person responsible for implementing the plan.
3. A vicinity map showing the location of water bodies that may be affected by erosion and

sedimentation from the project.

4. Existing and proposed drainage patterns, including drainage channels that drain to surrounding water bodies.
5. A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
6. Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
7. Description of temporary and permanent erosion control practices that will be used.
8. Identification of the locations of the temporary and permanent erosion control practices.
9. Identification of how, where and when collected sediment will be disposed.
10. Dust control measures.
11. Inspection and maintenance procedures, including schedule and frequency.
12. Description of when and how temporary and permanent erosion and sedimentation control practices, as applicable, will be removed.

The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District.

Q. Storage of Materials

All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures or other means. Material shall be stored so as to prevent wind blown debris, insects, odors, or any form of liquid discharge from migrating beyond property boundaries.

Exposed non-residential storage areas, exposed machinery and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse shall have sufficient setbacks and screening (such as a stockade fence or dense evergreen hedge) to provide a visual buffer sufficient to screen the proposed use from abutting residential uses and users of public streets.

All dumpsters or similar large collection receptacles for trash or other waste shall be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it shall be screened by fencing or landscaping.

Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

R. Storm Water Management

The proposed development will provide for adequate storm water management.

A storm water management plan shall be prepared for site plan review and subdivision applications by a registered professional engineer or a storm water management professional certified by the

Maine Department of Environmental Protection and be designed so that the post-development storm water runoff does not exceed the pre-development storm water runoff for the 24-hour duration, 2-, 10- and 25-year frequency storm events. The storm water plan shall be prepared in accordance with Stormwater Management for Maine: Best Management Practices, latest edition, prepared by the Maine DEP, which is incorporated herein by reference and made a part hereof. The storm water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the storm water plan and calculations by the Knox-Lincoln Soil and Water Conservation District.

S. Street Access, Driveways, Street/Road Construction Standards

1. General. Provision shall be made for vehicular access to any development. Circulation upon the site shall be provided in such a manner as to safeguard against hazards to traffic and pedestrians in the street and within the development, to avoid traffic congestion on any street and to provide safe and convenient circulation on public streets and within the development. More specifically, access and circulation shall also conform to the following standards and the design criteria below.
2. Permit Required. No person shall construct or cause to be constructed any vehicular access way onto a public street or way without first obtaining a permit from the Code Enforcement Officer. The Code Enforcement Officer, together with the Road Commissioner, shall inspect the site prior to issuance of an entrance permit. This permit is required in addition to a Planning Board permit under Site Plan or Subdivision Review. Once the permit is obtained, the e-911 addressing officer shall assign a number, or in the case of a private road, refer the matter to the Board of Selectment for approval of a name.
3. Access Types. As referenced below, and elsewhere in this ordinance, an access point shall be classified as one of the types below:
 - a. Low Volume Driveway: Commercial, light industrial, or residential access point serving no more than two dwelling units, lots, or commercial businesses and having less than twenty-five (25) vehicle trips per day.
 - b. Medium Volume Driveway: Any commercial driveway having from 26 vehicle trips per day up to 100 trips per peak hour.
 - c. High Volume Driveway: Any commercial driveway having a peak hour volume over 100 vehicle trips.
 - d. Minor Private or Public Street: A private or public way serving 3-5 dwelling units or lots.
 - e. Intermediate Private or Public Street: A private or public way serving 6-10 private dwelling units or lots.
 - f. Major Private or Public Street: A private or public way serving more than 10 private dwelling units or lots.
 - g. Industrial/Commercial Street: A private or public way serving only a commercial or industrial use, exclusive of parking lots, greater than 500' in length and having greater than twenty-five (25) vehicle trips per day.
4. Creation of Private Residential Street/Road.

A private drive may be created either through the Site Plan or Subdivision approval or by addition of a third dwelling unit to a private driveway. A private drive serving three or more residential lots or dwelling units shall be considered a street, and meet the standards in table 14(i) below. The Code Enforcement Officer shall not issue a building permit for a third dwelling unit served by a common drive until the drive is upgraded to road standards along its entire length, to the point of, and including an emergency vehicle turn around, as described in section 14.J. below. In the case of a residential Subdivision, a road maintenance agreement prepared or approved by the town's attorney and paid for by the developer shall be recorded with the deed of each property to be served by a common private road. The agreement shall provide for a method to initiate and finance a private road, maintain the road in good condition, and a method of apportioning maintenance costs to current and future users.

5. Access Location and Connectivity.

- a. Avoidance of local streets. The vehicular access to any development shall be arranged to avoid unnecessary traffic use of local residential streets.
- b. Frontage on two (2) streets. Where a lot has frontage on two (2) or more streets, the access to the lot shall be provided to the street where is lesser potential for traffic congestions and for hazards to traffic and pedestrians.
- c. Connections. Where topographic and other conditions allow, provision shall be made for circulation driveway connections to adjoining lots of similar existing or potential use:
 - 1) Fire protection. When such driveway connection will facilitate fire protection services as approved by the Fire Chief and/or
 - 2) Adjacent uses. When such driveway will enable the public to travel between two (2) existing or potential uses generally open to the public, without need to travel upon a street.

6. Sight Distances. Access points shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit lane with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. The required sight distances are listed below for various posted speed limits.

The sight distances provided below are based on passenger cars exiting from driveways or roads onto two (2) lane roads and are designed to enable exiting vehicles:

- a. Acceleration. Upon turning left or right, to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than ten (10) miles per hour; and;
- b. Traffic clearance. Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

<u>Operating Speed (mph)</u>	<u>Safe Sight Distance Left (ft)</u>	<u>Safe Sight Distance Right (ft)</u>
20	200	200
30	300	300

40	400	400
50	500	500

7. Vertical Alignment. An access point shall be flat enough to prevent the dragging of any vehicle undercarriage. Low volume driveways shall slope upward or downward from the gutter line on a straight slope of two percent (2%) or less for at least twenty-five (25) feet followed by a slope of no greater than ten percent (10%) for the next fifty (50) feet. The maximum grade over the entire length shall not exceed fifteen percent (15%). Medium and high volume driveways, and any classification of street should slope upward or downward from the gutter line on a straight slope of two percent (2%) or less for at least twenty-five (25) feet. Following this landing area, the steepest grade on the driveway shall not exceed eight percent (8%).
8. Access Location and Spacing
 - a. Minimum Corner Clearance. Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the access. In general, the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed below based upon access volume and intersection type.

MINIMUM STANDARDS FOR CORNER CLEARANCE
Minimum Corner Clearance (feet)

<u>Access Type</u>	<u>Intersection Signalized</u>	<u>Intersection Unsignalized</u>
Low Volume Driveway	150	50
Medium Volume Driveway	150	50
Minor Private Street	150	50
Intermediate Private Street	150	50
Major Private Street	50	250
High Volume Driveway	500	250
Special Case Driveway		
Right turn in only	50	50
Right turn out only	100	50
Right turn in or out	100	50

When standards cannot be met. Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternatively, construction of a shared access with an adjacent parcel is recommended.

- b. Access Spacing. Access points shall be separated from adjacent driveways and property lines as indicated below, in order to allow major through routes to effectively serve their primary arterial function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between access points and from the access point of tangency to a projection of the property line at the edge of the roadway for spacing to the property line.

MINIMUM ACCESS SPACING

Minimum Spacing to Adjacent Access³, by Access Type²

Access Type	Minimum Spacing to Property Line ¹ (feet)	Low (feet)	Medium (feet)	High w/o RT,* (feet)	High W/RT,** (feet)
Low Volume	8	***			
Medium Volume Driveway, Minor Street, or Intermediate Street	8	75			
High Volume Driveway, Major Street, Industrial/Commercial Street, (w/o RT)*	75	75	150		
High Volume (w/ RT)**	75	75	250	500	
Special Case	8	75	75	75	40****

- 1 Measured from point of tangency of driveway to projection of property line on roadway edge.
2 For two or more access points serving a single parcel, or distance to a proposed access point from an existing access point.
3 Measured from point of tangency of driveway to point of tangency of adjacent driveway.
* High volume driveway without right turn channelization
** High volume driveway with right turn channelization
*** Low volume driveways are not permitted in combination with other driveway types on a single lot.
**** Right-turn-in-only up stream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

9. Number of Access Points. The maximum number of access points onto a single existing public street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of access points independent of frontage length. In subdivision developments, the entire project shall be considered for determination of number of access points allowed to open onto an existing public street.
- a. Low volume traffic generator. No low volume traffic generator shall have more than one (1) two-way access onto a single roadway.
 - b. Medium or high volume traffic generator. No medium or high volume traffic generator shall have more than two (2) two-way access points or three access points in total onto a single roadway.
 - c. Notwithstanding other provisions of this ordinance, this driveway limit shall not apply to a private or public road being created as part of a subdivision or site plan.
10. Construction Materials/Paving
- a. Curb matching. All access points entering a curbed street shall be curbed with materials matching the street curbing at point of entry. Curbing is required around all raised channelization islands or medians.
 - b. Commercial driveway to be paved. All commercial driveways regardless of driveway volume may be required by the Planning Board to be paved with bituminous concrete pavement within thirty (30) feet of the street right-of-way.
11. Increases to Traffic Volume
- a. Capacity of street. The street giving access to the lot and neighboring streets which can be expected to carry traffic to and from the development shall have traffic carrying capacity and be suitably improved to accommodate the amount and types

of traffic generated by the proposed use. The capacity of any such street or streets shall not drop below the Level of Service "D", due to the development, as determined by using the capacity analysis procedures set forth in the Highway Capacity Manual 2000 as published by the Transportation Research Board.

- b. Traffic management. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, driveways and traffic controls within public streets.
- c. Vehicle queuing. Access ways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.

12. Construction Standards for Driveways

a. Low Volume Driveways

- 1) Skew Angle. Low volume driveways shall be a two-way operation and shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
- 2) Curb Radius. The curb radius shall be between five (5) feet and fifteen (15) feet, with preferred radius of ten (10) feet.
- 3) Driveway Width. The minimum width of the driveway shall be twelve (12) feet.

b. Medium Volume Commercial Driveways

- 1) Skew Angle. Medium volume driveways shall be either one-way or two-way operation and shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
- 2) Curb Radius. Curb radii will vary depending if the driveway is one-way or two-way operation. On a two-way driveway the curb radii shall be between twenty-five (25) feet and forty (40) feet, with a preferred radius of thirty (30) feet. On one way driveways, the curb radii shall be thirty (30) feet for right turns into and out of the site, with a five (5) foot radius on the opposite curb.
- 3) Width. On a two-way driveway the width shall be between twenty (20) feet and twenty-six (26) feet, with a preferred width of twenty-four (24) feet; however, where truck traffic is anticipated, the width may be thirty (30) feet. On a one-way driveway the width shall be between sixteen (16) feet and twenty (20) feet, with a preferred width of sixteen (16) feet.

c. High Volume Commercial Driveways

- 1) Skew Angle. High volume driveways shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
- 2) Curb Radius. Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between thirty (30) feet and fifty

(50) feet. With channelization islands, the curb radii shall be between seventy-five (75) feet and one hundred (100) feet.

- 3) Entering and exiting driveways shall be separated by a raised median which shall be between six (6) feet and ten (10) feet in width. Medians separating traffic flow shall be no less than twenty-five (25) feet in length, with a preferred length of one hundred (100) feet.
 - 4) Width. Driveway widths shall be between twenty (20) feet and twenty-six (26) feet on each side of the median, with a preferred width of twenty-four (24) feet. Right turn only lanes established by channelization island shall be between sixteen (16) feet and twenty (20) feet, with a preferred width of twenty (20) feet.
 - 5) Signage. Appropriate traffic control signage shall be erected at the intersection of the driveway and the street and on medians and channelization islands.
- d. Special Case Driveways. Special case driveways are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These driveways are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed driveway. These driveways are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.

13. General Requirements - Streets/Roads

- a. Subdivision and site plan review. The Planning Board shall not approve any subdivision and site review plan unless proposed streets and storm water management systems are designed in accordance with the specifications contained in this Ordinance.

Approval of the Final Plan by the Planning Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

- b. Construction drawings. Developers shall submit to the Planning Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. The plans shall include the following information:
- 1) Date, scale, and magnetic or true north point.
 - 2) Intersections. Intersections of the proposed street with existing streets.
 - 3) Dimensions. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 - 4) Drainage. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 - 5) Curves. Complete curve data shall be indicated for all horizontal and vertical curves.

- 6) Turning radii. Turning radii at all intersections.
 - 7) Centerline gradients.
 - 8) Utilities. Locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting and cable television.
- c. Road Commissioner review. Upon receipt of plans for a proposed public street, the Code Enforcement Officer shall forward one (1) copy to the Board of Selectmen and one (1) copy to the Road Commissioner or engineer retained by the Town of Waldoboro for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Road Commissioner for review and comments.

14. Street Design Standards

- a. General. These design standards shall be met by all streets within the subdivision or site review plan, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
- b. Through traffic. Streets shall be designed to discourage through traffic within a residential Subdivision or Site Plan.
- c. Solar energy. Wherever existing or other proposed streets, topography, and public safety permit, streets shall run in east-west directions to maximize access for solar energy utilization. The character, extent, width, and grade of all streets shall be considered in their relation to existing or planned streets.
- d. Reserve strips. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the municipality.
- e. Commercial streets. Adjacent to areas of commercial use, or where a change to a commercial uses is contemplated, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in this Ordinance.
- f. Narrow streets. Where a proposed development borders an existing narrow street (not meeting the width requirements of the standards for streets) the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements.
- g. Arterial street. Where a proposed development for more than 10,000 square feet of floor space abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly on to the arterial street. This requirement shall be noted on the Plan and in the deeds of any lot with frontage on the arterial street.
- h. Two street connections. Any proposed development may be required to have at least two (2) street connections with existing public streets, or streets on an approved subdivision plan or site review plan for which performance guarantees have been filed and accepted to provide for safe access for emergency vehicles.

Any street may be required to have at least two (2) street connections leading to existing public streets, streets shown on an official map, or streets on an approved subdivision plan or site review plan for which performance guarantees have been filed and accepted to provide for safe access for emergency vehicles.

- i. Design standards. The following design standards apply according to street classification.

Description	Type of Street						
	Arterial	Collector	Minor	Industrial/ Commercial ¹	Major Private Street	Intermediate Private Street	Minor Private Street
Minimum Right-of-Way Width	80'	50'	50'	80'	50'	36'	36'
Minimum Traveled Way Width	44'	20'	18'	36'	18'	16'	12'
Sidewalk Width	5'	5'	3'	5'	3'	3'	3'
Minimum Grade	.5%	.5%	.5%	0.5%	.5%	0.5%	0.5%
Maximum Grade	5%	8%	10%	5%	10%	12%	12%
Minimum Centerline Radius	800'	230'	75'	230'	75'	75'	75'
Minimum Tangent between curves of reverse alignment	300'	200'	60'	300'	N/A	60'	60'
Roadway Crown	¼"/ft	¼"/ft	¼"/ft	¼"/ft	N/A	¼"/ft	¼"/ft
Minimum angle of street intersections	90°	90°	75°	90°	75°	75°	75°
Maximum grade within 60 ft of intersection	2%	2%	2%	2%	2%	2%	2%
Minimum curb radii at intersections	30'	20'	15'	20'	N/A	15'	15'
Minimum r/o/w radii at intersections	20'	10'	10'	10'	10'	10'	10'
Minimum width of shoulders (each side)	6'	3'	2'	6'	2'	2'	2'

Notes:

1. The Planning Board may allow light industrial and commercial uses with minimal traffic to be built to major private street standards.

- j. Dead End Streets. In addition to the design standards above, dead end streets shall be constructed to provide a turn-around for emergency and service vehicles as described below:

- 1) A cul-de-sac with minimum radii: Property line sixty-five (65) feet; outer edge of pavement fifty (50) feet. The Planning Board may require the reservation of a twenty (20) foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. Where Subdivision or Site Plan is required, the Planning Board may also require the reservation of a thirty-six (36) foot easement in line with the street to provide continuation of the road where future subdivision is possible.
- 2) Alternatively, a T-turn around is permissible for residential subdivisions carrying an ADT (average daily trips) of 100 or less. The turn around area shall have a width equal to the street width, a 5-foot turning radius, and a total length of 50 feet centered above the street.

- k. Grades, Intersections, and Sight Distances.

- 1) Conformance to terrain. Grades of all streets shall conform in general to the terrain so that cut and fill are minimized while maintaining the grade standards above.

- 2) Vertical curves. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.
- 3) Sight distances. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below.

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- 4) Four-cornered intersections. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of 200 feet shall be maintained between centerlines of side streets.
- I. Sidewalks. Sidewalks shall be installed within all proposed development within the urban compact area as shown on the Maine Department of Transportation Compact Area Map 1984 (see Appendix A). Where installed, sidewalks shall meet these minimum requirements.
- 1) Bituminous Sidewalks
 - a) Gravel aggregate sub-base. The gravel aggregate sub-base course shall be no less than twelve (12) inches thick.
 - b) Crushed aggregate base. The crushed aggregate base course shall be no less than two (2) inches thick.
 - c) Bituminous surface. The hot bituminous pavement surface course shall be no less than two (2) inches after compaction.
 - 2) Portland Cement Concrete Sidewalks
 - a) Sand base. The sand base shall be no less than six (6) inches thick.
 - b) Concrete. The Portland Cement concrete shall be reinforced with six (6) inch square, #10 wire mesh and shall be no less than four (4) inches thick.
- m. Curbing. Where installed, curbing shall be granite and shall be installed on a thoroughly compacted gravel base of six (6) inches minimum thickness. The specified pavement width above shall be measured between the curbs.

15. Street Construction Standards

- a. Thickness. Minimum thickness of material after compaction:

Street Material	Minimum Requirements				
	Arterial	Collector	Minor	Private	Industrial /

	Road Commercial				
Aggregate Sub-base Course (max. sized stone 4")	18"	18"	18"	12"	18"
Crushed Aggregate Base Course	4"	3"	3"	3"	4"
Hot Bituminous Pavement:					
Total Thickness	3½"	3"	3"	N/A	3½"
Surface Course	1½"	1"	1"	N/A	1½"
Base Course	2"	2"	2"	N/A	2"

b. Preparation

- 1) Centerline flagging. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50) foot intervals.
- 2) Removal of objectionable materials. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the area to be paved.
- 3) Organic material. All organic materials shall be removed below the sub grade of the roadway. Rocks and boulders over eight (8) inches shall be removed to a depth of two (2) feet below the sub grade of the roadway. On soils which have been identified by the Knox and Lincoln Counties Soil Survey as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two (2) feet below the sub grade and replaced with material meeting the specifications for gravel aggregate sub-base below, or geotextiles may be used in accordance with industry standards.
- 4) Side slopes. Side slopes shall be no steeper than a slope of three (3) feet horizontal to one (1) foot vertical, and shall be graded, limed, fertilized, seeded, and mulched according to the specifications of the erosion and sedimentation control plan.
- 5) Underground utilities. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connection shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement

- 1) Bases
 - a) Aggregate sub-base. The Aggregate Sub-base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3-inch square mesh sieve shall meet the following grading requirements:

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/4 inch	25-70%
No. 40	0-30%

No. 200

0-7%

Aggregate for the sub-base course shall contain no particles of rock exceeding four (4) inches in any dimension.

- b) Aggregate base. The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The graduation of the part that passes a 3-inch square mesh sieve shall meet the following grading requirements:

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

Aggregate for the base course shall contain no rocks exceeding four (4) inches in any dimension.

- 2) Pavement Joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
 - 3) Curbs and Gutters
 - a) Installation. Street curbs and gutters shall be installed as required by the Board.
 - b) Handicapped access. Curbs shall be arranged for handicapped access at street corners and crosswalks, as specified by the Board.
 - 4) Pavements
 - a) M.D.O.T. base layer specifications. Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than one (1) inch maximum.
 - b) M.D.O.T. pavement specifications. Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than $\frac{3}{4}$ inch maximum.
16. Street Names, Signs and Lighting. Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to, the names of existing streets within the municipality, and shall be subject to the approval of the Board of Selectmen. No street name shall be the common given name of a person. The developer shall reimburse the municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Planning Board.
17. Certification of Construction before Municipal Acceptance. Upon completion of street

construction and prior to a vote by the Board of Selectmen to submit a proposed public way to the town meeting for acceptance by the Town, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Board of Selectmen at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of the Ordinance. "As built" plans shall be submitted to the Board of Selectmen.

S. Reserved

U. Traffic Impact Analysis

1. Traffic Impact Analysis. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service, and safety of adjacent streets shall be required if the project or expansion will provide parking for fifty (50) or more vehicles or generate more than one hundred (100) trips during the a.m. or p.m. peak hour based upon "Trip Generation, Seventh Edition", published in 2003 by the Institute of Transportation Engineers.
2. Changes to Public Ways. Any required changes to municipal owned or maintained public ways as a result of the development shall be paid for by the developer.

V. Water Quality Impacts

Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater both on and off site.

1. General. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that has the potential to run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.
2. Storage facilities. All above ground storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating oil and diesel fuel, not exceeding 275 gallons in size, are exempted from this requirement.
3. Below-ground tanks. All below-ground tanks must meet the standards of the Maine Department of Environmental Protection.
4. Hydrogeologic assessment. See the performance standard for Hydrogeologic Assessments of Groundwater Impacts in this Ordinance.

W. Aesthetic, Cultural, and Natural Values

Will not have an undue adverse effect on scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality or on Beginning with Habitat maps for Waldoboro, rare and irreplaceable natural areas

or any public rights for physical or visual access to the shoreline.

X. Financial and Technical Capability

The developer shall show adequate financial and technical capacity to meet the standards of this Ordinance.

Y. Flood Zone

The applicant will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the project is in a flood prone area. If the project, or any part of it, is in such an area, the applicant will determine the 100-year flood elevation and flood hazard boundaries within the project. The proposed project plan shall include a condition of plat approval requiring that principal structures on lots in the project shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

Any project in the flood zone must comply with Article 8 Floodplain Management.

Z. Freshwater Wetlands

All freshwater wetlands within the proposed development have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.

AA. River, Stream or Brook

Any river, stream or brook within or abutting the proposed development has been identified on any maps submitted as part of the application. For the purposes of this section, "river, stream or brook" has the meaning as in Title 38, section 480- B, subsection9.

BB. Spaghetti Lots

If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision have a depth to shore frontage ratio greater than five (5) to one (1).

CC. Adjoining Municipality

For any proposed development that crosses municipal boundaries, the proposed development will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the development is located.

DD. Access to direct sunlight

The Planning Board may prohibit, restrict or control development to protect and ensure access to direct sunlight for solar energy systems. The Planning Board may call for development plans which may contain restrictive covenants, height restrictions, side yard setback requirements, or other permissible forms of land use controls.

EE. Sufficient water.

Has sufficient water available for the foreseeable needs of the development including, but not

limited to , potable water and fire control water. Will not cause an unreasonable burden on an existing water supply, including private groundwater or the Waldoboro Water Department, whichever is utilized.

- FF. Conformity with Town ordinance and plans.** Is in conformance with all Town of Waldoboro Ordinances, comprehensive plan, development plans, or land use plans. In making this determination, the Planning Board may interpret these ordinances and plans.

ARTICLE 5. SPECIFIC PERFORMANCE STANDARDS

A. Accessory Apartments

Accessory apartments are permitted in any district where single-family detached residences are a permitted use. Not more than one accessory apartment may be developed within a single residential dwelling structure. The resulting two family units must share a structural common wall and will be treated the same as a two-family dwelling or duplex. (See footnote 5 in Article 3 H., Schedule of Dimensional Requirements.)

B. Adult Business Establishments/Adult Entertainment

1. Findings and Purpose. The Town of Waldoboro hereby finds that because of their unique and potentially offensive nature, adult business establishments can have a blighting influence on the surrounding neighborhood if permitted in certain districts or if allowed to concentrate in certain other districts within the Town. Moreover, such establishments are incompatible with uses characterized as family and youth activities. The purpose of this Section is, therefore, to prevent such deleterious effects and thus protect public health, safety, and general welfare by regulating the location and certain other aspects of adult business establishment as defined.

2. Requirements

Location. Adult business establishments must be at least 1,000 feet from any other business establishment and at least 1,000 feet as measured along the ordinary course of travel from the main entrance of each premise of a public, private or parochial school, school dormitory, church, synagogue or similar place of worship or legally established residential structure in existence prior to the establishment of the business. Adult business establishments may be located only in the Route 1 Commercial B and Route 1 Commercial A Districts.

Visibility of materials. No sexually explicit materials, entertainment or activity shall be visible from the exterior of the premises.

Compliance. Adult business establishments shall comply with all other codes of the Town of Waldoboro.

C. Agriculture and Related Businesses

The keeping of barnyard animals shall be subject to the following:

1. Best management practices. The management of animals must be consistent with the Maine Department of Agriculture Best Management Practices (MAPA Title 5, Chapter 275 and Nutrient Management Rules, Chapter 565).
 - a. Buffering and screening standards. The property shall be subject to the Buffering and Screening standards of this Ordinance, Article 4, Section B.
 - b. Fence. The landowner or occupant shall fence in any area in which animals are allowed to roam free with a fence of a type and height adequate to contain his or her

livestock.

- c. Manure storage. No manure shall be stored within 300 feet of the normal high water line of any water body, watercourse, fresh water or coastal wetland, or wells used to supply water for human consumption, or within 150 feet from the nearest dwelling other than the applicant's, unless stored in a weather proof structure designed to agricultural standards.
- d. Feed and grain. All processed feed and grain must be kept in enclosed rodent-proof containers.

D. Archaeological/Historic Sites

For any proposed land use activity requiring site plan or subdivision review, the owner or developer shall contact the Maine Historic Preservation Commission and request written confirmation as to whether or not the site of the proposed development has potential historic or archaeological significance. 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.

E. Automobile Graveyards, Junkyards, or Recycling Centers

1. Permits

- a. DEP permit. Prior to issuance of the municipal permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from DEP stating that a permit is not required.
- b. Permit renewal. Permits shall be renewed annually to be valid until the first day of the following year. After five consecutive years of violation-free operation, permits may be issued for five years. Revocation or suspension of the permit will require annual renewal for five consecutive years before a five-year permit may be issued. Once the site plan is approved it does not have to be resubmitted unless changes are made on the site. The Code Enforcement Officer shall inspect quarterly or cause to be inspected, the site to ensure that the provisions of this ordinance and state laws are complied with and document conditions for the Planning Board's use at the time of renewal. Violation of any condition, restriction or limitation of this Ordinance is cause for revocation or suspension of the permit. No permit may be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, junkyard or automobile recycling business. Notice of hearing in front of the Planning Board shall be sent to the owner or operator by registered mail at least seven (7) but not more than fourteen (14) days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.
- c. Fee. The Code Enforcement Officer shall collect in advance from the applicant a fee payable to the Town of Waldoboro for each permit for an automobile graveyard, automobile recycling or junkyard business plus the cost of posting and publishing the notice of public hearing.
- d. Liability insurance. Applicant shall furnish proof of general liability insurance in the amount of \$300,000 to ensure adequate financial protection in the event of injury or damage caused to members of the public.

2. Site considerations:

- a. Aquifer. No motor vehicles, junk or salvage material shall be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey or a licensed geologist.
- b. Floodplains. No motor vehicles, junk or salvage material shall be located within the 100 year flood plain, as mapped by the Federal Insurance Administration, the Army Corps of Engineers, or the U.S. Department of Agriculture.
- c. Visual buffer. A visual buffer capable of completely screening from view all portions of the automobile graveyard or junkyard shall be established and maintained along all property lines. All motor vehicles, junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent areas.
- d. Dwelling or School. No motor vehicles or junk or salvage material shall be stored within 500 feet of any dwelling or school.
- e. Water body. No motor vehicles or junk or salvage material shall be stored within 300 feet of any water body.
- f. Road rights-of-way, property lines. No motor vehicles or junk or salvage materials shall be stored within 100 feet of the road right-of-way or fifty (50) feet from the side or rear lot lines in order to protect neighboring landowners from any adverse consequences of the business, such as noise during operating hours.
- g. Height. No motor vehicles or junk or salvage materials shall be stored over twelve (12) feet in height.
- h. Size. Automobile graveyards, junkyards or recycling businesses shall not be over five (5) acres in size.
- i. Fluids. Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground. A concrete containment slab is required to be used for all dismantling operations. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner. The applicant shall provide documentation of methods to handle fluids prior to annual permit renewal.
- j. Burning. No open burning of salvage material or junk shall be permitted on the premises.
- k. Sanitation
 - 1) Storage. The facility shall be at all times maintained in a sanitary condition. Refuse shall be kept in a water-tight, insect-proof, and animal-proof enclosure.
 - 2) Prohibition. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the property.

- 3) Weeds and vegetation. Weeds and vegetation on the property, other than trees and shrubs, shall be kept at a height of not more than ten (10) inches.

I. Hours of operation

- 1) 7:00 a.m. to 10:00 p.m. No junk shall be delivered to the facility on Sundays, legal holidays, nor before the hour of 7:00 a.m. or after the hour of 10:00 p.m. on other days, except that special permission may be granted by an officer of the Waldoboro Police Department in the event of extenuating circumstances.
- 2) Crushing equipment. Any equipment used to crush motor vehicles shall only be operated within the area enclosed by screening of junked motor vehicles. No such equipment shall be operated on Sundays, legal holidays, or before the hour of 7:00 a.m. or after the hour of 10:00 p.m. on other days, except that special permission may be granted by an officer of the Waldoboro Police Department in the event of extenuating circumstances.

F. Bed & Breakfasts

1. Scale drawing. The application for approval shall include a scale drawing of the lot showing the location of: existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.
2. Parking. There shall be no less than one (1) parking space for each rental room in addition to the spaces required for the dwelling unit.
3. Bathrooms. There shall be one (1) bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
4. Room size. Each rental room shall contain not less than 120 square feet of floor space.
5. Smoke detector. Each rental room, stairwell and hallway on each level shall be equipped with a ULC approved smoke detector.

G. Campgrounds and Tenting Grounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of conflict, the stricter rule shall apply):

1. General
 - a. Acreage and location. A campground must be constructed on at least ten (10) acres of land, all camping sites or structures shall be located at least fifty (50) feet from any property line and 100 feet from any residence on abutting property, and have a maximum limit of 100 units or sites.
 - b. Site layout. Campsites shall be laid out and screened in such a manner that none are within view from public roads, existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard.
 - c. Density. Tent sites and sites for recreational vehicles (RV's) shall be laid out so that

the density of each developed acre of land does not exceed eight (8) sites per acre of land excluding circulation roads.

- d. Floodplain. No campsite shall be located within the 100 year flood plain.

2. Parking and circulation

- a. Off-street parking. A minimum of 300 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.

Recreational vehicles shall be parked in spaces so that:

- 1) Vehicle separation. There shall be a minimum of twenty-five (25) feet between vehicles; and
- 2) Tent site separation. There shall be a minimum of seventy-five (75) feet between all tent sites.

3. Health and safety

- a. Picnic table, trash receptacle. Each recreational vehicle, tent, or covered shelter site shall be provided with a picnic table and trash receptacle for every three (3) sites. The park management shall empty said containers at least once every two (2) days.
- b. Water and sewer. A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. In no case shall less than one (1) toilet and lavatory be provided for each sex for every ten (10) camping and tent sites.
- c. Fire extinguishers. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations.
- d. Fireplace. Each campsite shall be provided with a masonry or metal fireplace, approved in writing by the Town of Waldoboro Fire Chief.

H. Excavation/Borrow Pits

- 1. Permit Required. Topsoil, rock, sand, gravel and similar earth materials may be removed only after a site plan for such operations has been approved by the Planning Board. The following earth-moving activity shall be allowed without approval from the Planning Board:
 - a. Less than 1,000 cubic yards. The removal of less than 1,000 cubic yards of material (500 cubic yards of topsoil) from any lot in any twelve (12) month period.
 - b. Incidental to construction. The removal of material incidental to construction, alteration or repair of a building or in the grading and landscaping incidental thereto; and
 - c. Right-of-way, essential service. The on-site removal of material incidental to construction, alteration or repair of a public or private right-of-way or essential service.

All other earth-moving, processing and storage shall require a Site Plan Review approved by the Planning Board.

2. Submission requirements

- a. Site plan review procedures. Applications to the Planning Board for a Site Plan Review for the excavation, crushing, screening or storage of soil (including topsoil), peat, loam, sand, gravel, rock, or other mineral deposits shall be prepared according to Article 6, Section C.
- b. Hydrogeologic study. The Planning Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.
- c. Restoration plan. The applicant for site plan approval for the operation of an earth-moving activity shall present a restoration plan for the operation of the activity and the restoration of the land. Such plan shall include dates by which the various temporary and permanent conservation practices will be initiated, and must be reviewed and evaluated by the Knox/Lincoln County Soil Conservation Service before it will be considered acceptable.

3. Performance standards

- a. Property lines and streets. No part of any extraction operation shall be permitted within 100 feet of any property or street line, except drainage ways to reduce run-off into or from the extraction area. Natural vegetation shall be left and maintained on the undisturbed land.
- b. Fencing. If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out.
- c. Slopes. No slopes steeper than three (3) feet horizontal to one (1) foot vertical shall be permitted at any extraction site unless a fence at least five (5) feet high is erected to limit access to such locations.
- d. Liability insurance. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Code Enforcement Officer of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.
- e. Hours of operation. The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.
- f. Secured vehicles. Loaded vehicles shall be suitably secured to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Road Commissioner. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.
- g. Access roads. All access/egress roads between the extraction site and public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways.

- h. Debris, shelters. No equipment debris, junk or other material shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed following completion of active extraction operations.
 - i. Grade restoration. Within six (6) months of the completion of extraction operations at any extraction site or any one (1) or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved restoration plans filed with the Planning Board. Operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive twelve (12) month period.
 - j. Removal or burial of debris. All debris, brush, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or in the case of inorganic materials, buried and covered with a minimum of two (2) feet of soil.
 - k. Storm drainage, water courses. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 - l. Disturbed areas. All disturbed areas shall be reseeded and restored to a stable condition adequate to meet the provisions of the "Maine Erosion & Sediment Control Handbook for Construction: Best Management Practices", as amended or revised, published by the Maine Department of Environmental Protection.
 - m. Permanent slopes. No permanent slope greater than three (3) feet horizontal to one (1) foot vertical shall be permitted.
 - n. Topsoil, loam. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
 - o. Depth to water table. Excavation may not occur within five (5) feet of the seasonal high water table. If standing water already exists in an excavated area, no further excavation that would result in an increased area of standing water shall be allowed. The Planning Board may allow excavation to extend to or below the water table and an area of standing water may be increased through excavation if such excavation is approved by the Maine Department of Environmental Protection.
4. Imposition of conditions. In granting site plan approval for the operation of an earth-moving activity, the Planning Board may impose other reasonable conditions to safeguard the neighborhood and the municipality. Such conditions may include but shall not be limited to:
- a. Processing. Methods of removal or processing.
 - b. Hours. Hours of operation.
 - c. Structures. Type and location of temporary structures including installation of barriers such as fences to control access.
 - d. Routes. Routes of transporting materials.

Site Plan and Subdivision Review

- e. Excavations. Area and depth of excavations.
- f. Debris. Disposition of stumps, brush and boulders.
- g. Streets. Cleaning, repair and resurfacing of streets used in removal activity which have been adversely affected by such activity.

I. Fuel Storage

Commercial fuel storage facilities for wholesale or retail distribution other than automobile service stations shall be located a minimum of 300 feet from a public way, and 300 feet from a residential dwelling unit.

J. Groundwater Extraction, Impact Assessment and Permit

1. Permit required. The removal of more than 1000 gallons per day of groundwater or spring water as part of a residential, commercial, industrial, or land excavation operation or for a public water supply or distribution system, where allowed under this ordinance, shall require a Planning Board Site Plan Review approval. The Planning Board shall grant approval if it finds that the proposal, with any reasonable conditions, will conform to the requirements of this Section and Article 6, Section D.
2. Submission requirements. The application together with site plan shall include the following information:
 - a. Statement. Statement of the quantity of groundwater to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;
 - b. DHS review. A letter from the Maine Department of Human Services with review comments on the facility as proposed where the Department has jurisdiction over the proposal.
 - c. Hydrogeologic investigation. Applicants shall present a written report of a hydrogeologic investigation conducted by a certified professional geologist with demonstrated groundwater hydrology impact assessment experience and training. This report shall include the following information:
 - 1) Aquifer map. A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which water is to be extracted, in sufficient detail to support a calculation of sustained yield during a drought with a probability of one (1) in ten (10) years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
 - 2) Aquifer characteristics. The results of the investigation shall establish the aquifer characteristics, the rates of draw-down and rebound, the sustainable yearly, monthly (by month) and daily extraction rates, the cone of depression which may develop about the proposed facility, and impacts on the water table in the tributary aquifer and all private or public wells within the tributary aquifer or within 1,000 feet of the proposed extraction facilities whichever is greater shall be assessed.
3. Performance standards
 - a. Water table. The quantity of water to be taken from groundwater sources will not

substantially lower the groundwater table beyond the property lines, cause salt water intrusion to any existing well, cause undesirable changes in groundwater flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten (10) years.

- b. Water quality. The proposed facility shall not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
- c. Recharge area. The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.
- d. Records. The operator shall make monthly operating records of the quantity of water extracted, stored and removed from the site available to the Code Enforcement Officer or a designee.
- e. Groundwater rights. Nothing in this procedure, and no decision by the Planning Board, shall be deemed to create groundwater rights other than those rights which the applicant may have under Maine law.

K. Home Occupations

A home occupation shall be permitted if it complies with all of the requirements of this Section:

- 1. Incidental use. The use of a dwelling unit for a home occupation shall clearly be incidental and subordinate to its use for residential purposes.
- 2. Residents. A home occupation shall be carried on only by residents of the dwelling unit and not more than two (2) persons other than family members residing in the home.
- 3. Residential character. A home occupation may not alter the residential character of the structure or change the character of the lot from its principal use as a residence.
- 4. Principal or accessory structure. The home occupation shall be carried on wholly within the principal and/or one (1) accessory structure. The home occupation may utilize up to 2,500 s.f. footprint in the accessory structure plus not more than forty (40) percent of the footprint of the principal structure. The outside storage or display of materials or products shall be screened from view from the abutting properties and street. Exterior storage of materials shall occupy no more than 1,000 square feet of land area, and such land area shall meet the setback requirements for structures as specified in this Ordinance. The storage of up to two (2) commercial fishing boats shall not be included in the 1,000 square foot limitation.
- 5. Sign. One (1) externally lit sign no larger than six (6) square feet may be erected on the premises.
- 6. On-premise products. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises, to catalog items ordered off the premises by customers, items which are accessory and incidental to a service which is provided on the premises and antiques which, because of their age, rarity or historical significance, have a monetary value greater than their original value.
- 7. Traffic. A home occupation shall not create greater traffic than normal for the area in which it is located.

8. Nuisance control. No home occupation shall be permitted or allowed to operate if it creates any of the following nuisances off the lot: noise, vibration, glare, odors, dust, smell, smoke or heat. In addition no home occupation shall be allowed which creates a fire hazard to the premises or neighboring premises or which creates electrical interference such that it causes visual or audible interference in any radio or television receivers off the premises, or such that it causes voltage fluctuations off the premises.

L. Hotels, Motels, Overnight Cabins

For traffic safety on and immediately adjoining each motel, hotel or cabin and to assure health, safety and welfare of occupants and of the neighborhood generally, the following land, space, building, traffic, utility, and service design requirements shall be complied with. For the purposes of this Section, the terms hotel, motel and cabin are used interchangeably.

1. Cooking and eating facilities. If cooking or eating facilities are provided in hotel rental units, each such rental unit shall be considered a dwelling unit, and the hotel with more than three (3) such units shall be required to meet all the standards for multifamily dwellings (see Article 5 Section Q).
2. Size. Each motel rental unit shall contain not less than 200 square feet of habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each motel rental sleeping room shall not be less than twelve (12) by fifteen (15) feet in floor area exclusive of bath. Each rental unit shall include private bathroom facilities.
3. Apartment. On each hotel lot, one (1) apartment may be provided for a resident owner, manager, or other responsible staff person.
4. Fire Marshal review. Hotel building construction plans shall be reviewed and approved by the State Fire Marshal's Office.

M. Kennels, Commercial, and Veterinary Clinics

1. Residential setback. Structures or pens for housing or containing the animals shall be located not less than 100 feet from the nearest residence other than the owners' existing at the time of permit.
2. Impacts on other properties. All pens, runs, or kennels and other facilities shall be designed, constructed, and located on the site to minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
3. Sanitary conditions. The owner or operator of a kennel shall maintain the premises so that no garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
4. Temporary storage containers. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four (4) days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

5. Kennels and runs. Any kennels or runs shall be fenced if located within 250 feet of any property line. A kennel run shall be constructed of suitable material to provide for cleanliness, ease of maintenance and noise control.
6. Incineration. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from the nearest residence other than the applicant's, and shall have a chimney vent not less than thirty-five (35) feet above the average ground elevation. The applicant shall demonstrate that there will be no offensive odor.
7. Performance standards. All other relevant performance standards in Article 4 shall also be observed.

N. Industry/Manufacturing, Warehousing and Trucking Terminals

1. Environmental Standards. These standards shall apply to industrial uses as defined. When submitting an application for a Site Plan Review, the applicant shall submit the following information:
 - a. Description of operations. A written description of the industrial operations proposed in sufficient detail to indicate the effects of these operations in producing traffic congestion, noise, toxic or noxious matter, vibration, odor, heat, glare, air pollution, waste, and other objectionable effects.
 - b. Plan for wastes. Engineering and architectural plans for the treatment of and disposal of sewage and industrial wastes and any on-site disposal of wastes.
 - c. Plans for impacts. Engineering and architectural plans for handling any traffic congestion, noise, odor, heat, glare, air pollution, fire hazard, or safety hazard.
 - d. Fuel use. Designation of the fuel proposed to be used and any necessary plans for controlling the emission of smoke or particulate matter.
 - e. Shifts and employees. The proposed number of shifts to be worked and the maximum number of employees on each shift.
 - f. Landscape features. A plan prepared by a registered professional landscape architect, engineer, surveyor, or architect indicating trees to be retained, streams and other topographical features on the site and within one hundred (100') feet from the exterior boundaries of the property.
 - g. Chemicals. A list of all chemicals and all hazardous materials regulated by the U.S. Environmental Protection Agency or the Maine Department of Environmental Protection that are to be hauled, stored, used, generated or disposed of on the site, and a list of required State and Federal permits.
2. General requirements
 - a. Enclosed buildings. All business, service, repair, manufacturing, storage, processing, or display on property abutting or facing a residential use or property or public road shall be conducted wholly within an enclosed building unless screened from the residential area or road.

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- b. Loading docks. Loading docks, overhead doors and similar openings in structures shall be prohibited on sides of the structure adjacent to or across the street from a residential use or property.
- c. Yard maintenance. All other yards abutting or across a street from a residential use or property shall be continuously maintained in lawn or other landscaping unless screened from the residential use.
- d. Access. Access points from a public road to industrial operations shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.
- e. Sanitary conditions. All materials including wastes shall be stored, and all grounds shall be maintained, in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.
- f. Ordinance provisions. Prior to the issuance of building permits, the applicant shall demonstrate that all provisions of this Ordinance have been met.
- g. Off-street parking. Off-street parking requirements as stated in Article 4, Section J shall be met.
- h. Buffers. The requirements for buffers contained in Article 4, Section B shall be met.
- i. Noise. The noise level of the industrial process shall not exceed 60 decibels at any property line from 10:00 p.m. to 7:00 a.m. and 70 decibels from 7:00 a.m. to 10:00 p.m.
- j. Exterior storage. Exterior storage of materials shall occupy no larger than 5,000 square feet of contiguous land area and be screened, per Article 5. a. above.
- k. Property line impacts. There shall be no objectionable land, water or air discharges or emissions at any property line.
- l. Machinery testing. The operation or testing of machinery and engines, including but not limited to saws, splitters, snowmobiles, and all-terrain vehicles, shall be prohibited other than in enclosed buildings.
- m. Deliveries. There shall be no deliveries or shipments of hazardous materials in quantities large enough to cause a public health hazard in case of accidental release.
- n. Discharges. Discharges shall be in conformance with Article 4, Section M - Sanitary Provisions.

O. Light Industry:

1. Specific Performance Standards

- a. General requirements. The Planning Board shall classify an industrial use a light industrial use if it finds that it meets all of the following standards:
 - 1) Will generate less than 30 truck trips per day.

- 2) Noise will not exceed 50 decibels at any property line from 10:00 p.m. to 7:00 a.m. and 60 decibels from 7:00 a.m. to 10:00 p.m.
- 3) Outside storage of materials or waste shall not exceed 1,000 s.f.
- 4) Will not create a nuisance by smoke, vibration, odor or appearance.
- 5) Parking and loading facilities are not oriented towards any residence within 300 feet.
- 6) The total footprint of all structures does not exceed 10,000 s.f.
- 7) The use is determined to be a low-impact activity, including, by way of example only, the following: bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, precision instruments, watchmakers, musical instruments, toys and sporting goods, pottery and ceramics using only pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and the packaging of foods.

P. Manufactured Home Parks

The following provisions shall apply to all development proposals for new construction of manufactured home parks and to any expansion of existing manufactured home parks.

1. Plan

- a. Site plan review. An approved manufactured home park plan shall be necessary under the Site Plan Review provisions of this Ordinance, prior to the establishment or expansion of a manufactured home park.
- b. Other requirements. An approved manufactured home park plan shall not exempt an applicant from meeting other applicable local, State, or federal requirements.
- c. Construction time limits. Manufactured home park construction shall be accomplished in accordance with the approved plan and shall be completed within forty-eight (48) months from approval date of the plan. If construction is incomplete after forty-eight (48) months and the manufactured home park operator desires to continue construction, the applicant must re-submit a plan for Planning Board approval.

2. General

- a. Single parcel. A manufactured home park shall consist of a single parcel of land.
- b. Three (3) lot minimum. At least three (3) manufactured home lots shall be established and provided with utilities before manufactured home park occupancy is allowed.
- c. Electrical service. Electric substations, transformers, transmission lines, distribution lines, and meters shall be located in such a manner that they are not hazardous.
- d. Sanitary sewers. New manufactured home parks shall either be connected to the municipal sanitary sewer system or be located within a two-mile radius of the

intersection of Jefferson Street and U.S. Route 1, provided that manufactured home parks shall be prohibited in the Residential, Historic Village, Downtown Business, Route 1 Commercial B or Route 1 Commercial A Districts. Developers of proposed manufactured home parks not on the municipal sanitary sewer system shall conduct a hydrogeologic assessment according to the "Hydrogeologic Assessment of Groundwater Impacts" standard in Article 4 of this Ordinance.

3. Access. A manufactured home park shall have safe and convenient vehicular access from public streets.
4. Lot size
 - a. Minimums. Notwithstanding other requirements of this Ordinance, lots shall meet the following requirements:

	<u>Minimum Lot Size</u> Sq. ft.	<u>Minimum Frontage</u> Feet
Lots served by public sewer	5000	50
Lots served by individual subsurface wastewater disposal systems	20,000	100
Lots served by one (1) or more centralized subsurface waste disposal systems serving two (2) or more dwelling units and approved by the Maine Department of Human Services	12,000	75

5. Overall density. The overall density of any park served by any on-site wastewater disposal system shall not exceed one (1) dwelling unit for each 20,000 square feet of total park area. The total area of a manufactured home park shall not be less than the sum of the following:
 - a. Lot total. The combined area of the manufactured home park lots, which shall each meet the minimum lot requirements,
 - b. Roads. The area required for road rights-of-way,
 - c. Buffer strips. The area required for buffer strips,
 - d. Open space. For parks served by public sewer, a minimum of open space area equal to ten (10) percent of the combined area of the lots.
6. Setbacks
 - a. Minimums. Minimum setback distances for structures shall be as follows:

<u>Location</u>	<u>Setback</u>
Street right of way	25 feet
Side lot line	10 feet
Rear lot line	10 feet
 - b. Boundaries. Structures shall be set back a minimum of thirty (30) feet from manufactured home park boundary lines.
7. Placement of units on lots
 - a. Manufactured home lots. All manufactured homes shall be placed upon separate lots within the manufactured home park. The boundaries of each lot shall be clearly marked with permanent corner pins for each lot, and the lots shall be well surfaced or seeded to provide adequate drainage beneath and adjacent to any manufactured

housing units parked thereon.

- b. Manufactured home pad. Each manufactured home shall be set upon a manufactured home pad consisting of at least a twelve (12) inch thickness of gravel base material. Concrete or other durable pads approved by the Planning Board may be used. The width and length of the manufactured home pad shall conform to those dimensions of the manufactured home placed upon it.
 - c. Skirting. The vertical space from the manufactured home pad to the manufactured home frame shall be enclosed with a durable material, installed in a neat manner within thirty (30) days after the manufactured home is set in place. The material requires approval of the manufactured home park operator and the Code Enforcement Officer of the Town of Waldoboro.
 - d. Utility building. Each occupied home lot shall be provided with a utility building within thirty (30) days after the manufactured home is set in place. The minimum size of the utility building shall be eight (8) feet square. The utility building shall be stable and attractive. This utility building requires the approval of the manufactured home park operator and the Code Enforcement Officer of the Town of Waldoboro.
 - e. Accessory structures. Accessory structures such as a garage shall be allowed upon mobile home lots provided the structure meets requirements of this Ordinance.
 - f. Refuse. Each occupied manufactured home lot shall be provided with a water-tight, insect-proof and animal-proof enclosure for storage of refuse. The responsibility of providing the refuse storage enclosure shall be that of the manufactured home park operator prior to the installation of a manufactured home.
 - 1) Single structure. A single structure, if built by the operator of the manufactured home park, shall satisfy the requirements of this Section, provided it is of sufficient size and design to meet the purposes of those provisions.
 - 2) Location. The refuse storage enclosure required herein need not be on the same lot as the manufactured home.
 - 3) Collection. Collection of refuse shall be conducted at regular intervals and shall be performed in a neat workmanlike manner. Collection and disposal of refuse shall be the responsibility of the manufactured home park operator and shall be accomplished according to State of Maine and local regulations.
 - g. Grading and drainage. Every lot used in a manufactured home park shall be properly graded and drained for disposal of surface and storm water.
8. Landscaping
- a. Pad orientation. Manufactured home pads shall be oriented in regard to natural features where practical.
 - b. Trees. Wooded areas and individual trees shall be preserved where practical.
 - c. Vegetative cover. Vegetative cover such as grass shall be provided for land area not paved, graveled, or occupied by a structure.

- d. Other plantings. Other planting shall be established to create an attractive setting for manufactured home homes, promote privacy, minimize glare, and provide shade.
- 9. Street illumination
 - a. Brightness. Streets shall be illuminated with a minimum illumination level of 0.1 foot candle per square foot.
 - b. Intersections. Street intersections shall be illuminated.
- 10. Manufactured home park roads
 - a. Roads for public acceptance. Manufactured home park roads which the developer intends to offer to the municipality for acceptance as Town ways shall be constructed to the road standards found in Article 4, Section T.
 - b. Private roads. Manufactured home park roads which the developer intends to retain in private ownership shall be designed in accordance with accepted engineering standards by a licensed professional engineer and stamped with a professional engineer's seal in accordance with the requirements of the Manufactured Housing Board, and shall be constructed to the standards in Table 1.

Table 1
Manufactured Home Park Private Road Standards

Minimum right-of-way width	23 feet
Minimum pavement width	20 feet
Minimum sidewalk width, if installed	5 feet
Minimum grade	0.5 %
Maximum grade within 100' of the intersection of a public way measured from the center line of the public way	1.0 %
Maximum grade	8.0 %
Minimum center line radius.....	100 feet
Minimum tangent between curves of reverse radius	50 feet
Minimum roadway crown	1/8"/ft
Maximum roadway crown	1/2"/ft
Minimum angle of street intersections	75 degrees
Minimum curb radii at street intersections	20 feet
Minimum right-of-way radii at intersections	10 feet
Minimum width of shoulders without sidewalks (each side)	3 feet
Cul-de-sac & turn around radii:	
1) Property line	65 feet
2) Outer edge of pavement	50 feet
3) Inner edge of pavement	30 feet

- c. Off-street parking. At least one (1) off-street parking space shall be provided for each manufactured home lot at a distance less than 100 feet from the manufactured home it serves. Off-street parking spaces shall be constructed with a minimum thickness of twelve (12) inches gravel base material. Such parking space shall have a minimum dimension of ten (10) feet width by twenty (20) feet length.
- d. Street maintenance. Streets within the manufactured park not to be offered to the Town for acceptance as Town ways shall be constructed, maintained, and serviced by the manufactured home park operator.

11. Buffer strips

- a. Continuous buffer strip. A continuous buffer strip or an existing wooded area not less than twenty-five (25) feet in width shall be required, and shall contain evergreen shrubs, trees, fences, walls, or any combination of the above. The buffer strip shall be located along all boundaries of the manufactured home park.
- b. Structure prohibition. No structures, streets or utilities shall be permitted in the buffer strip, except that utilities may cross a buffer strip to provide services to a manufactured home park, and driveways may cross the buffer strip to provide access to roads outside the park.

12. Conversion of park. No lot in a manufactured home park may be sold or otherwise conveyed without prior written approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirements of the district in which it is located.

13. Utilities

a. Water supply

- 1) Individual service. Each manufactured home shall be provided with an adequate, safe, potable water supply.
- 2) Quantity. The water supply shall provide a minimum of 150 gallons of water per day per manufactured home.
- 3) Plumbing code. Water supply systems shall be installed and maintained in accordance with the State of Maine Plumbing Code, 10-144A CMR 238 and all revisions thereof.

b. Sanitary sewer system

- (1) Plumbing code. Sanitary sewer systems shall comply with the State of Maine Plumbing Code, 10-144A CMR 241 Subsurface Waste Water Disposal Rules and all revisions thereof.
- 2) On-site system. Where public sewer is not available, a sanitary sewer system and treatment facility shall be designed and installed under supervision of an engineer registered in the State of Maine.
- 3) Connection to public sewer. A manufactured home park located within 1500 feet of a public sewer system shall provide an internal sewer system connected into the public system. The internal sewer system shall be designed and installed under the direction of an engineer registered in the State of Maine.
- 4) Septic systems. Septic systems for individual lots are permitted. Privies shall not be permitted in a manufactured home park.
- 5) Maintenance. The sanitary sewer system within the manufactured home park shall be constructed and maintained under the responsibility of the manufactured home park management.

- 6) Off-premises maintenance. A portion of a sanitary sewer system located outside a manufactured home park and not maintained by a public utility shall require maintenance under the responsibility of the manufactured home park owner.

c. Electric Supply

- 1) Regulations. A manufactured home park shall contain an electrical system designed, installed, and maintained in accordance with the National Fire Protection Association's NFIPA-70-1990 National Electric Code and applicable State of Maine and local regulations.
- 2) Design, installation. The electrical system shall be designed and installed under the supervision of an electrical engineer registered in the State of Maine.
- 3) Lines. Electrical distribution lines within the manufactured home park may be installed overhead or underground. All underground lines shall be protected by a rigid conduit or encased in concrete.

14. Innovative Manufactured Home Park Design

- a. Waivers. The Planning Board may consider waiving provisions of these regulations to allow innovative design. However, the following minimum standards must be met:

- 1) Purpose. The purpose and intent of this Ordinance shall be upheld.
- 2) Regulations. Federal, State and local regulations shall not be violated.
- 3) Frontage Reductions. Manufactured home lots bounding cul-de-sacs or curvilinear streets may have reduced street frontage requirements up to ten percent (10%) or a maximum of seven and a half (7.5) feet.
- 4) Setback reductions. Setback requirements may be reduced according to the following:

<u>Location</u>	<u>Normal Setback</u>	<u>Modified Setback</u>
Street right-of-way	25 feet	20 feet
Side lot line	10 feet	8 feet
Rear lot line	10 feet	8 feet

- 5) Density. The manufactured home park net residential density shall not exceed five (5) mobile homes per acre. Net residential density is computed by dividing the number of lots by the total lot acreage.

- b. Open space. Land accumulated by reducing lot size to areas within the net residential density shall be used to increase recreational space.

15. Fire protection

- a. Fire regulations. A manufactured home park shall comply with state and local fire regulations.

- b. Internal fire protection. A manufactured home park located within 1500 feet of an adequate public water supply system shall provide an internal fire protection water supply system connected to the public system. The internal fire protection water system shall be designed and installed under direction of an engineer registered in the State of Maine.
 - c. Fire extinguisher. Each manufactured home shall be equipped with at least one (1) fire extinguisher rated as Class A-B-C of not less than four and three-fourths (4-3/4) pounds capacity.
 - d. Smoke detectors. Each manufactured home shall be equipped with two (2) or more smoke detectors.
- 16. Exterior lighting. Exterior lighting installed on a manufactured home or manufactured home lot shall be installed in accordance with Article 4, Section G.1., Lighting and Glare, such that it is not directed toward surrounding property, street, or other manufactured home lots.
- 17. Signs. All signs shall be in conformance with Article 4, Section N., Signs.
- 18. Lot identification
 - a. Lot number. Each manufactured home lot shall have a number applied by the operator of the manufactured home park, and the lots shall be numbered in an orderly consecutive fashion. Even numbers shall be on the one side of a street and odd numbers shall be on the opposite side of the street.
 - b. Manufactured home number. Each manufactured home shall be numbered in a manner consistent with the number assigned to the lot.
 - c. Display. The manufactured home lot number shall be prominently displayed upon the manufactured home on a surface facing the street. Manufactured home lot numbers shall be uniformly located on each manufactured home if possible.
- 19. Recreational areas. Not less than eight percent (8%) of the gross site area shall be devoted to recreational facilities, with no single recreation area being less than 10,000 square feet. Such areas shall be located in one (1) or more convenient, central location(s) with easy and safe access for all park residents.
- 20. Mailboxes. The manufactured home park operator shall supply mailboxes for the residents in a place, number and manner satisfactory to the Post Office.
- 21. Miscellaneous
 - a. General requirements
 - 1) Regulations. A manufactured home park shall conform to this Ordinance and to the "State of Maine Rules and Regulations of The Professional and Financial Regulation, Manufactured Housing Board to Mobile Homes".
 - 2) Occupant notification. The manufactured home park operator shall inform occupants of this Ordinance and indicate the responsibilities of the occupants under this Ordinance.

- 3) Register. Manufactured home park management shall maintain a register containing names and lot numbers of manufactured home park occupants. The register shall be available for inspection by federal, State, and local authorities upon request during normal business hours.
- 4) Utility connections. Manufactured home park management shall be responsible for connection of utilities for set up of a manufactured home.
- 5) Installation permit. A permit is required prior to a manufactured home or accessory structure being installed on a manufactured home park lot.
- 6) Removal of manufactured home. A manufactured home shall not be removed from a lot until a written certificate is obtained from the tax collector of the Town of Waldoboro, identifying the manufactured home and stating that all property taxes applicable to the manufactured home, including those for the current tax year, have been paid or that the manufactured home is exempt from such taxation.

b. General prohibitions

- 1) District prohibitions. Manufactured home parks are not allowed within the Shoreland Zone; such parks are allowed only in those districts where specific provision is made for them in Article 3, Section F.4., Schedule of Uses.
- 2) Ruins. Ruins caused by fire or other causes are not allowed within a manufactured home park. If ruins are created, such ruins shall be removed within sixty (60) consecutive calendar days from the time of their creation.
- 3) Fuel tanks. Fuel tanks and bottled gas shall not be placed such that they face a street or road.

Q. Mass Gatherings

Applications for mass gatherings shall contain the following information:

1. A site plan showing the following:
 - a. The area to be used for the mass gathering
 - b. The area to be used for parking
 - c. Traffic ingress and egress
 - d. Sight distances at ingress and egress drives
 - e. Existing and proposed structures to be used for gathering
 - f. A site plan drawn to scale, if requested by the Code Enforcement Officer or Planning Board
2. Written information including the following:

- a. How will traffic control / public safety be handled?
- b. How will emergency medical services be handled?
- c. How will fire control be handled?
- d. Refuse disposal provisions
- e. Sanitary provisions
- f. Proposed signs: size, location, and duration
- g. Number of days and hours of operation of event

R. Multi-Family Dwellings

Multi-family developments shall be approved by the Planning Board pursuant to this Ordinance. All proposals to construct multi-family developments shall be in conformance with this Ordinance and the design requirements listed below.

1. Water supply

- a. Public supply - mandatory connection. When a multi-family development is proposed within the service area of a public water supply system, all dwellings shall be connected to the system. The applicant shall demonstrate by a signed letter from an authorized representative of the Water Department that an adequate water supply can be provided to the development for potable water supply purposes and at an adequate pressure for fire fighting purposes. Fire hydrants shall be located so that they are not more than 500 feet from any building, as hose is laid on the street.
- b. Hydrogeologic assessment. When a multi-family development is proposed outside of the service area of a public water supply system, the applicant shall provide a hydrogeologic assessment and demonstrate the availability of adequate supply and quality of water for both domestic and firefighting purposes. The Planning Board may require the construction of fire ponds and dry hydrants.

2. Sewage disposal. All residential buildings shall be connected to the Waldoboro Utility District system. The applicant shall submit to the Planning Board a letter from the Superintendent of the Utility District indicating that service is available and the sewage from the development can be adequately treated.

3. Rubbish, snow removal, maintenance. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least six (6) feet in height.

4. Storm water and drainage. Storm water and surface drainage systems shall be designed in accordance with Article 4, Section R.

5. Multiple street access. All developments containing fifteen (15) or more dwelling units may be required by the Planning Board to have more than one (1) street access (for emergency and safety purposes). No more than two (2) accesses shall be allowed on any single street or roadway.

6. Recreation and open space. All multi-family developments of fifteen (15) dwelling units or more shall provide a developed play area no smaller than 5,000 square feet. Any development in which occupancy is restricted to the elderly need not provide a play area, but space shall be provided for outdoor recreation.

S. Open Space Subdivisions

1. Introduction

a. Policy

It is the policy of the Town of Waldoboro to encourage the use of open space subdivisions in order to preserve a sense of space, provide for sustainable agriculture and forestry as well as recreational land, preserve other resources identified in the Town of Waldoboro Comprehensive Plan, and harmonize new development with the traditional open, wooded, agricultural, rural and village landscapes of the Town.

This performance standard is intended to implement that policy by providing incentives that afford flexibility to landowners in road and lot layout and design and road frontage requirements and by allowing the Planning Board to expedite procedure and to waive or reduce certain otherwise applicable standards and provisions of this Land Use Ordinance if such landowners commit to the permanent preservation of important open space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to housing and environmental design for the development of single and multi-family residential areas that will promote the most appropriate use of land and will preserve, as permanent open space, agricultural or forestry land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents.

b. Purposes

To qualify as an open space subdivision, the Planning Board must find that the subdivision will achieve all of the following purposes that are applicable to its specific circumstances:

- 1) Long term protection and conservation of existing natural and other resources and landscapes identified in the Comprehensive Plan and the Land Use Ordinance, including but not limited to:
 - a) State-defined critical areas, and unique natural features located on the parcel to be subdivided;
 - b) Historic land use patterns and historic structures;
 - c) Points of visual access to or from water bodies, scenic vistas, and points of access to water bodies;
 - d) Contiguous stands of mature trees;
- 2) Maintenance or establishment of compatibility with surrounding land uses and the overall rural character of the Town as defined by the Comprehensive Plan;
- 3) Provision of adequate buffers for adjoining properties where needed;
- 4) Contribution to Town-wide open space planning by creating a system of permanently preserved open space, both within large parcels of land and among such parcels throughout the Town, and by encouraging linkages

between open space areas;

- 5) Conservation of land suitable or actively used for agriculture and forestry, particularly where the open space subdivision borders active agricultural or forest land or land suitable for the same;
- 6) Conservation of traditional land uses;
- 7) Creation of choices in the type of environment (business or residential) and type of housing available that will be a long-term asset to Waldoboro;
- 8) Construction of affordable housing;
- 9) Provision of recreation facilities, including active and passive recreational space, in the most suitable locations for use consistent with the other purposes of this performance standard; and
- 10) Attainment of planned variety and coordination in the location of structures, architectural styles, and building forms and relationships.

c. Types of Open Space Subdivisions

There are two types of open space subdivisions, which may be used separately or in combination:

1) Cluster Subdivisions.

A cluster subdivision achieves the purposes of this performance standard by reducing the lot size and frontage and setback requirements in the Land Use Ordinance, modifying the road design standards contained in the Subdivision Regulations, and clustering housing or business structures and uses in those areas where they will have the least impact on identified environmental and other open space resources. These resources are then permanently preserved by the use of covenants and restrictions and/or conservation easements that run with the land. The cluster principle can be applied to subdivisions of any size.

2) Conservation Density Subdivisions

A conservation density subdivision achieves the purposes of this performance standard through the creation of significantly lower lot densities than what would be allowed in the applicable land use district. In no event may the density of such a subdivision average less than ten (10) acres per principal structure, including the land placed in open space for the parcel or portion of the parcel to be developed. This low density is maintained in perpetuity through the use of permanent conservation easements or covenants and restrictions running with the land.

d. Grouping Contiguous Parcels

In order to increase design flexibility, two or more contiguous parcels of land under the same or different ownership, including parcels separated by a public or private road, may be grouped together as one open space subdivision, if the Planning Board finds that such grouping will benefit the Town and that it helps achieve the purposes set forth in Article 5 Section R.1.b.

2. Planning Board Review

a. Pre-application

An individual may test the feasibility of an open-space subdivision as part of the pre-application conference described in Article 6 Section D.1.

b. Application Procedure

1) Required Plans

The submissions for an open space subdivision shall include, as appropriate unless any of the same is waived, all plans and materials required for a conventional subdivision.

2) Waiver of Submission and Review Requirements

The Planning Board may grant appropriate waivers of submission requirements for an open space subdivision in order to expedite and make the review process more efficient where the number of lots proposed for development in a parcel is five or fewer within any five-year period, or the proposed open space subdivision is a conservation density subdivision.

3. General Requirements

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of the Land Use Ordinance:

a. Use and District Requirements

All open space subdivisions shall meet the use standards of the districts in which they are located.

b. Allowable Density

1) The allowable density for a proposed development of five or fewer lots within any five-year period on a parcel of land under one ownership or a grouping of contiguous parcels as described in Article 5 Section R.1.d. shall be determined by the gross lot area of the portion of each parcel proposed for development without reference to net residential acreage, divided by the minimum lot size of the applicable district without reference to net residential acreage.

2) The provisions for open space subdivisions may be applied to a development consisting of a single lot where the purposes set forth in Article 5 Section R.1.b. will be served and which may provide effective long range planning for a larger parcel of land than sought to be developed, when used in conjunction with the flexible open space and substitution, timing, or phasing provisions of this performance standard. In such cases, sufficient open space to accommodate the single lot shall be permanently preserved as set forth in Article 5 Section R.4., Open Space Requirements.

3) The allowable density for all other developments shall be based on net

residential density, and shall be calculated in the following manner:

- a) Determine the buildable area of the parcel according to the definition of "net developable area" contained in Article 4 Section H. and reduce it by 20%; then
 - b) Divide the reduced net developable area by the minimum lot size required in the district to obtain the net residential density allowable.
- 4) A lot for a dwelling unit created as part of an open space subdivision shall not be further subdivided.
 - 5) A lot for a principal structure created as part of an open space subdivision where such lot shall have within its bounds designated open space shall not be further subdivided unless the original approved plan shall have reserved future development of such lot. Any such further subdivision shall only be made in accordance with Article 5 Section R.
 - 6) Any affordable housing density bonus provision provided for in the Land Use Ordinance shall also apply within clustered residential projects.
 - 7) In a conservation density subdivision, where all other requirements of Article 5 Section R are met, the Planning Board may include up to 50% of land in Resource Protection zones and wetland areas for purposes of calculating density.

c. Layout and Siting Standards

In planning the location and siting of residential or business structures in an open space subdivision, lot dimension and frontage should not be the primary considerations. Priority should be given to the preservation of the open space for its natural resource value, with human habitation and business activity located and sited on the lower valued natural resource portion of a parcel, taking into account the contours of the land and the reasonableness of slopes.

The building lots on a parcel shall be laid out and the residences and business structures shall be sited so as to maximize the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

- 1) In the least suitable agricultural soils and in a manner which maximizes the useable area remaining for the designated open space use, where existing or future agricultural, forestry, or recreational uses are particularly sought to be preserved.
- 2) In locations least likely to block or interrupt scenic, historic, and traditional land use views, as seen from public roadways and great ponds.
- 3) Within woodlands or along the far edges of open agricultural fields adjacent to any woodland, to reduce encroachment upon agricultural soils, to provide shade in the summer and shelter as well as solar gain in the winter, and to enable new residential development to be visually absorbed by natural landscape features;

- 4) In such manner that the boundaries between residential or business lots and active agricultural or forestry land are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential or business and agricultural or forestry uses;
- 5) In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development;
- 6) In locations that provide compatibility in terms of physical size, visual impact, intensity of use, proximity to other structures, and density of development with other permitted uses within the land use district;
- 7) In locations such that diversity and originality in lot layout and individual building, street, and parking layout is encouraged.
- 8) So that individual lots, buildings, street and parking areas shall be designed and situated to minimize alterations of the natural site, to avoid the adverse effects of shadows, noise and traffic on the residents of the site, to conserve energy and natural resources, and to relate to surrounding properties, to improve the view from and of buildings.

d. Space Standards

- 1) Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the land use district.
- 2) Distances between residential structures in multi-family open space subdivisions shall be a minimum of the height of the tallest structure.
- 3) In areas outside of the shoreland zone, the required minimum lot size or minimum land area per dwelling unit for the building envelope may be reduced in open space subdivisions to no less than one-half acre. If the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the land use district as modified by Article 5 Section R.3. b Allowable Density.
- 4) Minimum road frontage requirements of the Land Use Ordinance may be waived or modified by the Planning Board provided that:
 - a) Any applicable provisions regarding roads in Article 4 Sections S and T are satisfied.
 - b) Adequate access and turnaround to and from all parcels by fire trucks, ambulances, police cars and other emergency vehicles can be ensured by private roads and /or common driveways.
 - c) No common driveway shall provide access to more than three (3) lots.
- 5) A reduction of required setback distances may be allowed at the discretion of the Board, provided that the front, side and rear setbacks shall be no less

than twenty-five feet or that required for the applicable land use district, whichever shall be less. For the perimeter of a multi-family cluster development, site setback shall not be reduced below the minimum front, side and rear setbacks required in the land use district unless the Planning Board determines a more effective design of the project can better accomplish the purposes of this performance standard.

e. Utilities

At the discretion of the Planning Board, in order to achieve the most appropriate design and layout of lots and open space, utilities including individual wells and septic systems may be located on designated portions of the open space, if necessary, provided the same shall not unreasonably interfere with the open space purposes to be achieved under this performance standard and for the particular parcel(s) that is the subject of the application for open space subdivision.

- 1) The Planning Board may waive or modify hydrogeological reviews or studies, if the applicant demonstrates that due to the specific placement of wells and septic systems:
 - a) Adequate groundwater is available at all locations proposed for individual water systems; and that
 - b) There is no reasonable likelihood that the domestic water supply for any proposed lot will exceed 10mg/l of nitrates.
- 2) If a private central collection septic system is proposed for a single-family clustered development or a multiplex cluster development, the applicant must show that at least one (1) designated site for each lot, either in the open space or on the lot, has adequate soils and land area suitable for subsurface waste disposal for each lot in accordance with the minimum standards set forth in the Maine State Plumbing Code, or that a second designated site on the parcel has the size, location and soil characteristics to accommodate a system similar to the one originally proposed.
- 3) If a private central collection system is proposed, the system shall be maintained by a homeowners' association or under an agreement of the lot or unit owners in the same fashion required for maintenance of the open space by a homeowners' association or the lot or unit owners in common, and written evidence of said maintenance agreement shall be submitted to the Planning Board.

4. Open Space Requirements

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Land Use Ordinance or the Subdivision Regulations.

Open space set aside in an open space subdivision shall be permanently preserved as required by this performance standard, except as allowed under this provision for flexible open space and the substitution for and/or the addition to the same. Land set aside as permanent open space may, but need not, be a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings are permitted, provided that a conservation easement or a declaration of covenants and restrictions is placed on such land pursuant to Article 5 Section R.4.c., Preservation in Perpetuity, and

provided that the Planning Board approves such configuration of the open space.

a. Open Space Uses

On all parcels, open space uses shall be appropriate to the site. Open space shall include natural features located on the parcel(s) such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, agricultural land, forested acreage, wildlife habitat, rock outcroppings and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

- 1) On parcels that contain significant portions of land suited to agricultural production, open space shall be conserved for agriculture or other consistent open space uses such as forestry, recreation (active or passive), and resource conservation.
- 2) When the principal purposes of conserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.
- 3) Open space areas shall be contiguous, where possible, to allow linking of open space areas throughout the Town.
- 4) If the open space is to be devoted at least in part to a productive land use, such as agriculture or forestry, the developer shall submit to the Planning Board a plan of how such use is to be fostered in the future. Such plan may include, for example, a long-term timber management plan.
- 5) The Planning Board may limit the use of any open space at the time of final plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of plan approval, shall be reviewed by the Planning Board as an amendment to the approved plan.
- 6) Further subdivision of open space or its use for other than agriculture, forestry, recreation or conservation, except for easements for underground utilities, shall be prohibited and shall be so stated by deed restrictions except as provided in Article 5 Section R.4.c. Structures and buildings accessory to agriculture, recreation or conservation uses may be erected on open space, subject to Planning Board approval under Article 6 of the Land Use Ordinance and the provisions for open space subdivisions.

b. Notations on Plan

Open space must be clearly labeled on the Final Plan to show ownership, management, responsibility for maintenance, method of preservation, permitted uses and the portions of the open space to which such uses apply, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The Plan shall clearly show that the open space land is permanently reserved for open space purposes, is subject to a reservation for future development, including those provisions allowed under Article 5 Sections R.4.e and f. and shall contain a notation

indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions.

c. Preservation in Perpetuity

An owner of a parcel of land may designate all or a portion of the parcel for open space use in perpetuity if the purposes set forth in Article 5 Section R.1.b. are achieved and all other requirements of this performance standard are met, subject to the following conditions:

- 1) A perpetual conservation easement or declaration of covenants and restrictions restricting development of the open space land must be incorporated in the open space plan.
- 2) The conservation easement may be granted to or the declarations may be for the benefit of a private party, third party or other entity, the Town, with the approval of the Board of Selectmen, or to a qualified not-for-profit conservation organization acceptable to the Planning Board.
- 3) Such conservation easement or declaration of covenants and restrictions shall be reviewed and approved by the Planning Board and be required as a condition of plan approval hereunder.
- 4) The Planning Board may require that such conservation easement, or declaration of covenants and restrictions, be enforceable by the Town of Waldoboro if the Town is not the holder of the conservation easement or beneficiary of the declarations.
- 5) The conservation easement or declarations shall prohibit residential, industrial, or commercial use of such open space land (except in connection with agriculture, forestry, and recreation), and shall not be amendable to permit such use.
- 6) The conservation easement or declarations shall be recorded in the Lincoln County Registry of Deeds prior to or simultaneously with the filing of the Open Space Subdivision final plan in the Lincoln County Registry of Deeds.
- 7) Notwithstanding the foregoing, the conservation easement, or the declaration of covenants and restrictions, may allow dwellings to be constructed on portions of parcels that include protected open space land, provided that:
 - a) The total number of dwellings permitted by the conservation easement, or declaration of covenants and restrictions, in the entire subdivision does not exceed the allowable density established in this performance standard above;
 - b) The Planning Board grants approval for such lots; and,
 - c) The applicant has reserved the right to apply for approval for such additional lots.

d. Ownership of Open Space Land

Open space land may be held in private ownership (which is to be preferred) including an appropriate third party not the applicant; or owned in common by a homeowners' association (HOA); dedicated to the Town, county or State governments or agencies; transferred to a non-profit organization such as a conservation trust or association acceptable to the Planning Board; or held in such other form of ownership as the Planning Board finds adequate to achieve the purposes set forth in Article 5 Section R.1.b. and under the other requirements of this Land Use Ordinance.

The appropriate form of ownership shall be determined based upon the purpose of the open space reservation as stated pursuant to Article 5 Section R Q.4.a. above. Unless so determined, or unless deeded to the Town of Waldoboro and accepted by the citizens of the Town at Town Meeting, common open space shall be owned in common by the owners of the lots or units in the development. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land shall be included in the deed for each lot. Ownership of the open space land shall be indicated on the final subdivision plan.

e. Flexible Open Space and Substitution; Phasing

An applicant for an open space subdivision may at a future time designate other land to serve as the open space for such subdivision if the Planning Board finds that the purposes set forth in Article 5 Section R.1.b. will better be served by promoting a more innovative design and layout of lots created over time in relation to the area(s) designated as open space if all other requirements under this performance standard may be met and such substitution is specifically allowed in any documentation associated with the open space, conservation easement, or homeowners' association. Development that is phased over time, including a schedule over time for either sale of lots or layout of further lots as part of the open space subdivision plan, is encouraged so that more appropriate design of land use and preservation of greater open space may be achieved.

f. Maintenance Standards

Maintenance standards for open space land, where appropriate, shall be in accordance with other requirements of this Land Use Ordinance.

T. Recreational Facilities

All recreation facilities shall meet the provisions below:

1. Parking. There shall be provided adequate off-street parking for the anticipated maximum attendance at any event.
2. Rubbish facilities. Containers and facilities for rubbish collection and removal shall be provided.
3. Screening. Adequate screening, buffer area, or landscape provisions shall be built, planted, or maintained, to protect adjacent residences from adverse noise, light, dust, smoke and visual impact.

U. Recycling Centers other than Automobile Recycling Facilities

1. Processing. No processing shall be conducted on-site except to bundle/bale the materials for pick-up.
2. Time limits. No processing, pickup or delivery of recyclable materials shall take place before 7:00 a.m. or after 10:00 p.m. during any day.
3. Storage. The facility shall store the materials on-site for a period of time not to exceed one (1) year.
4. Maintenance. The facilities shall be maintained in a neat, clean and orderly manner.
5. Identification. The facility shall be clearly identified.

V. Restaurants

1. Seating capacity. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit.
2. Public sewer connection. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners. When subsurface wastewater disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the Maine State Subsurface Wastewater Disposal rules.
3. Restrooms. Restroom facilities for the patrons shall be provided consistent with State law.
4. Parking. Parking shall comply with the standards in Article 4 Section J.

W. Shipping Containers, Mobile Homes and Buses as Outdoor Storage

1. Lots in Residential Use
 - a. Shipping containers, mobile homes and buses are not permitted for use as outdoor storage on lots in residential use. Existing units must be removed within two years of the effective date of this Ordinance.
 - b. A property owner may apply for a shipping container permit to temporarily locate a single shipping container on a lot in residential use for a period not to exceed six (6) months. Use of such shipping container shall be limited to the temporary storage of residential goods, such as household furniture, appliances, bathroom fixtures, clothing and similar items, while the residence is being remodeled or is being repaired after damage due to fire, flood or similar event. A three (3) month extension of a shipping container permit may be granted at the discretion of the Code Enforcement Officer.
2. Lots in Non-Residential or Mixed Use
 - a. Shipping containers are permitted on lots in non-residential or mixed use in the Route 1 Commercial A, Route 1 Commercial B and Industrial Districts subject to Site Plan Review by the Planning Board and issuance of a shipping container permit by the Code Enforcement Officer and further subject to the following standards:

- 1) Their use is limited to the temporary storage of goods, products or materials that are manufactured or assembled on the site or used in manufacturing and assembly on the site.
 - 2) The total floor area of all shipping containers on a lot shall not exceed seven hundred (700) square feet.
 - 3) They are located outside of any required setback, parking space or vehicle maneuvering area.
 - 4) They do not adversely affect sight distance at any point of access from the site onto a public or private way.
 - 5) They do not adversely affect stormwater flow across the site.
- b. A property owner may apply for a shipping container permit from the Code Enforcement Officer to continue use of shipping containers on lots in non-residential or mixed use in the Route 1 Commercial A, Route 1 Commercial B and Industrial Districts if he/she can demonstrate to the satisfaction of the Code Enforcement Officer that such shipping containers were on his/her lot and in active use as of January 1, 2005. The Code Enforcement Officer may not issue such permit unless the property owner has submitted a written application within six (6) months of the effective date of this ordinance. The application shall include a site plan that shows the location of all shipping containers in relation to existing improvements and demonstrates compliance with the standards of subsection 2.a.1) – 5). In the event the site does not comply with one or more of the subsection 2.a standards, the application shall include a written plan demonstrating how the site will be brought into conformance within three (3) months of issuance of a shipping container permit. If the Code Enforcement Officer determines that the site has not been brought into compliance with the subsection 2.a standards within this time period, he/she may revoke the shipping container permit and order all shipping containers removed from the site.
- c. Shipping containers may be temporarily placed on lots in non-residential or mixed use where a construction project is occurring and utilized for the storage of construction materials, equipment, tools, etc. without a shipping container permit from the Code Enforcement Officer. In all cases, such shipping containers shall not be placed where they will diminish or negatively impact sight distance, cause a hazard to the traveling public, or negatively impact existing stormwater flow across the site. Such shipping containers shall be removed within thirty (30) days after the completion of the construction project.

X. Single-Wide Manufactured Homes

1. Older single-wide manufactured homes (pre-June, 1976)
 - a. Nonconforming structures. Older single-wide manufactured homes which were legally existing in the Town of Waldoboro as of the effective date of this Ordinance, shall be considered nonconforming structures and may continue and may be maintained, repaired, improved, and expanded. Legally nonconforming older single-wide manufactured homes may also be relocated from one lot to another within a manufactured home park, from one manufactured home park in the Town of Waldoboro to another manufactured home park in Waldoboro, from an individual lot in the Town of Waldoboro to a manufactured home park, or if it meets the standards

in b., below, to individual lots in Waldoboro.

- b. Importation of older single-wide manufactured homes. Older single-wide manufactured homes being relocated into the Town of Waldoboro shall be at least fourteen (14) feet wide and shall have at least 750 square feet of floor area and be certified as being in compliance with the safety standards contained in Rule 02-385, Department of Professional and Financial Regulation, Manufactured Housing Board.
 - c. Alteration of older single-wide manufactured homes. No person shall remove any structural component from under the older single-wide manufactured home such that it might weaken its structural integrity unless the older single-wide manufactured home is to be set on a permanent foundation that shall adequately support the older manufactured home in such a way as to maintain its structural integrity.
2. Newer single-wide manufactured homes
 - a. Placement on individual lots. A single-wide manufactured housing unit meeting the following standards may be placed on any residential lot in the Rural District.
 - 1) Minimum horizontal dimension: fourteen (14) feet;
 - 2) Living space: at least 750 square feet;
 - 3) Roof: a pitched, shingled roof with a minimum pitch of 3/12 that meets the standards of the State of Maine Manufactured Housing Act;
 - 4) Construction: meets standards of the U.S. Department of Housing and Urban Development;
 - 5) Siding: residential in appearance;
 - 6) Foundation: Any foundation system allowed by the State's "Manufactured Housing Installation Standards," 1991, as amended, with properly attached and residential appearing skirting, or a full basement.
3. Construction sites. The Code Enforcement Officer may issue a special permit for use of a single-wide manufactured home for a temporary office for the length of the project period on construction sites anywhere in the Town of Waldoboro.
4. Placement in a manufactured home park. The following types of manufactured housing may be placed in an approved manufactured home park:
 - a. Newer manufactured homes (manufactured after June 15, 1976)
 - b. Modular homes
 - c. Safety standards. Older manufactured homes which meet the safety standards referenced in Article 5 Section W.1.b. and the following:
 - 1) Width. Are at least fourteen (14) feet in width,
 - 2) Size. Have a minimum of seven hundred fifty (750) square feet of living area,
 - 3) Roof. Have a roof which sheds snow (minimum pitch 3/12), and

- 4) Siding. Have residential siding.
5. Travel trailers. A travel trailer shall in no case be used as a manufactured home and any travel trailer in use as a temporary dwelling (i.e. not more than three (3) months) shall have adequate health and sanitation facilities provided. A travel trailer while not in use may be stored on the premises of the owner.
6. Replacement of a non-conforming single-wide manufactured home.

A single-wide manufactured home that is non-conforming due to a setback from a road or lot line may be replaced provided that such non-conformity is reduced to the greatest practical extent.

Y. Small Wind Energy Regulations

1. Intent of this Section: The Town of Waldoboro regulates the placement and construction of Small Wind Energy Systems in order to promote their safe and efficient use. These regulations are meant to encourage the Town's government, residences, small businesses, home occupations, and farms to use Small Wind Energy Systems, which reduce on-site demand for utility-supplied electricity and increase consumer energy independence and the demand for a non-polluting source of energy. The regulations are also intended to minimize the visual, environmental and operational impacts of Small Wind Energy Systems on the Town and its residents.
2. Definitions. The following definitions govern this section:
 - a. "AWEA" means the American Wind Energy Association
 - b. "Diameter" means the cross sectional dimension of the circle swept by the rotating blades or helix or other rotating or moving component of the Small Wind Energy System.
 - c. "Small Wind Energy System" means a wind energy conversion system consisting of a wind turbine, air foils of various shape or size, a tower (or appropriate attachment to, or inclusion within a building) and all of its related components and associated control or conversion electronics, which has a rated capacity that does not exceed 100 kilowatts. A single Small Wind Energy System may serve more than one lot, residence, home occupation, farm or small business.
 - d. "System Height" means the height above grade to the tip of the Small Wind Energy System when it reaches its highest elevation when in operation.
 - e. "Tower" means, with regard to a Small Wind Energy System, the structure on which the Small Wind Energy System is mounted. This includes a monopole, or a freestanding or guyed structure that supports a Small Wind Energy System.
 - k. "Tower Height" means the height above grade of the fixed portion of the Tower, excluding the wind turbine and air foils.
3. Permit Required. In addition to the procedures set forth in Article 2.C. of this Ordinance, the following permitting procedures shall apply:
 - a. Notice to Abutters. Notice of an application for installation of a Small Wind Energy

System shall be provided by regular US mail by the Town to property owners whose property line is within 1000 feet of the site of the proposed Small Wind Energy System. Responses to the notice shall be filed with the Code Enforcement Officer no later than 20 days from the date of notice. The Code Enforcement Officer may request that the Planning Board call a public hearing concerning the application if responses from abutters indicate that a public hearing, in the discretion of the Code Enforcement Officer, is either necessary or advisable.

- b. **Public Notice.** The Code Enforcement Officer may, if he or she deems it necessary due to circumstances specific to the proposed installation, provide notice of the application by placing a display advertisement in at least one newspaper of general circulation. The applicant shall pay the cost of the display advertisement. The Code Enforcement Officer may request the Planning Board to call a public hearing concerning the application if responses to the public notice indicate that a public hearing, in the discretion of the Code Enforcement Officer, is either necessary or advisable.
 - c. **Modifications.** Any modifications to a previously permitted installation must receive the review and approval of the Code Enforcement Officer.
- 4. **Schedule of Dimensional Requirements.**
 - a. The permit applicant shall provide evidence that the proposed Tower Height does not exceed the tower height recommended by the manufacturer or distributor of the system.
 - b. Small Wind Energy System Tower Heights of not more than 80 feet may be allowed on parcels of one acre or less;
 - c. Small Wind Energy Systems on parcels of more than one acre may be allowed to accommodate Tower Heights of up to 90 feet.
 - d. In determining allowances for tower heights, consideration shall be given to the heights of surrounding trees, to existing wind corridors and to the proximity of buildings on abutters' and the permit applicant's properties.
 - e. The Tower shall be set back from the property line at least 100% of the System Height, except that guy wire anchors may extend to the property boundary.
 - f. Consideration shall be given to Restrictive Small Wind Energy System Easements on abutting parcels to satisfy acreage and setback requirements. If a Wind Easement and/or Restrictive Small Wind Energy System Easement has been obtained or granted to the owner of the proposed Small Wind Energy System, setback may be measured from the extent of the easement boundary (see #10 of this section)
 - g. **Blade Clearance.** For horizontal axis wind turbines, the minimum distance between the ground and any protruding propeller blades shall be not less than 15 feet as measured at the lowest point of the arc of the blades. For vertical axis wind turbines, the ground clearance shall be not less than 15 feet from the ground to the bottom of the lowest revolving element, unless adequate safety measures are in place.
- 5. **Performance Standards.**

Site Plan and Subdivision Review

- a. Capacity: A Small Wind Energy System shall be rated to a maximum capacity of 100KW or less, and shall be used primarily to provide electricity on-site, rather than as a generator to the grid.
- b. Visual Impacts:
 - 1) Each wind turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features to screen views of the wind turbine(s) from occupied buildings, scenic resources, and public roads.
 - 2) When existing features do not screen views of a wind turbine from occupied buildings, scenic resources and public roads, screening shall be provided, where feasible and effective, through the planting of trees and/or shrubs. Generally, such plantings should be of native varieties. In order to maximize the screening effect and minimize wind turbulence near the wind turbine, plantings should be situated as near as possible to the occupied buildings, scenic resources and/or public roads.
 - 3) If requested by an affected party, the Planning Board may require a visual impact assessment by a qualified professional. The Planning Board may, at the applicant's expense, require an independent second assessment. If the Planning Board determines that the proposed project will constitute an "undue adverse effect" upon a neighboring property, it may require mitigation of the effects to the greatest practical extent. However, visual impact shall not be grounds for denial of an application.
- c. Lighting: Illumination, signals, signs, and antennas are expressly prohibited on Small Wind Energy Systems except as required by the Federal Communications Commission or the Federal Aviation Administration.
- d. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- e. Tower: The tower shall be designed and installed such that public access via step bolts or a ladder is prevented for a minimum of 12 feet above the ground. Lattice structures shall be prohibited and guyed structures shall only be permitted if the Code Enforcement Officer deems them to be appropriate for their intended site and location within the Town.
- f. Attached Small Wind Energy Systems: Small Wind Energy Systems designed for attachment to a building shall be allowed provided the system meets the applicable requirements of this section and is engineered to prevent damage or wear to the building and injury to its inhabitants.
- g. Shadow Flicker: Wind turbines shall be sited and designed to avoid unreasonable adverse shadow flicker effects on any occupied building located on another landowner's property.
- h. All electrical lines leading from the Small Wind Energy System shall be buried.
- i. Both a manual and an automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation and noise.
- j. Noise: A Small Wind Energy System shall conform to the noise provisions of Article

4.I.1 of this Ordinance, except during short-term events such as utility outages and severe wind storms. Owners operating Small Wind Energy Systems which exceed the allowed noise level shall be required, within 30 days of receipt of notice from the Code Enforcement Officer, (i) to modify the operation and/or design of the system to bring it into compliance with this section and (ii) to pay any cost abutter(s) incurred for a sound level test. Owner's failure to comply with this section within the designated time-frame shall constitute sufficient grounds for the Code Enforcement Officer to demand and enforce the immediate shut-down of the small wind energy system.

6. Submission Requirements. The following information shall be submitted to the Code Enforcement Officer as part of the building permit application for a Small Wind Energy System:
 - a. Standard drawings of the footprint on the lot showing (i) a title block with date, scale, and arrow point north; (ii) the applicable zoning district; (iii) setbacks of all existing and proposed structures or uses; (iv) the location of all existing and/or proposed structures or uses; and (v) any overhead utility lines.
 - b. Small Wind Power Energy System specifications, including manufacturer and model; diameter; generating capacity; tower height, type of tower (free-standing or guyed); evidence of compliance with AWEA standards, and a photograph, line drawing or digital image of the Small Wind Energy System.
 - c. Tower foundation blueprints or drawings.
 - d. Standard drawings and an engineering analysis of the tower or certification by the manufacturer or by a professional mechanical, structural or civil engineer that the system meets AWEA standards. The analysis shall include standards for ice and wind loading and operations in winter weather and evidence that the proposed Small Wind Energy System will not exceed the permitted noise level. If a distance of less than system height is proposed from all boundaries and structures (including allowances for wind easements and/or restrictive small wind energy easements), then the Code Enforcement Officer may require that the Small Wind Energy System and foundation design, taking into consideration soil conditions at the installation site, be certified by a State of Maine Licensed Professional Engineer.
 - e. Confirmation that the generators and alternators specified do not interfere with radio and television signals.
 - f. If applicable, documentary evidence of any restrictive small wind energy system easements and wind easements.
 - g. Evidence of compliance with, or non-applicability of, FAA regulations.
 - h. Information demonstrating that the system will be used primarily to reduce onsite consumption of electricity.
 - i. Evidence that the completed Small Wind Energy System is in compliance with dimensional requirements.
 - j. Photographs of the proposed site and surrounding landscape.
 - k. Any additional information the Code Enforcement Officer deems to be necessary.

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7. Prohibitions. Small Wind Energy Systems shall not be allowed in the Historic Village District.
8. Expeditious Review and Commissioning. The Code Enforcement Officer shall review an application for a Small Wind Energy System in accordance with Article 2.C.6. of this Ordinance. Small Wind Energy Systems approved pursuant to this Section shall only become operable when commissioned by inspection of the Code Enforcement Officer.
9. Fees. The Select Board shall determine the fees the Town charges to review an application and to issue a permit for a Small Wind Energy System.
10. Wind Easement. A restrictive easement may be placed on a property abutting a property with a Small Wind Energy System. If an easement contains terms restricting the uses and structures within the easement area, a Small Wind Energy System may be permitted closer to the easement abutter's property line than would normally be allowed by applicable setback requirements. Any property owner may grant a wind easement in the same manner and with the same effect as a conveyance of any interest in real property. Wind easements shall be created in writing and shall be filed and duly recorded. Recorded easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that an easement may terminate upon the conditions stated therein.
11. Dismantling of Unsafe or Non-Functional Small Wind Energy Systems. In the event the Code Enforcement Officer determines any Small Wind Energy System is unsafe, the Code Enforcement Officer shall inform the owner of the determination in writing. The owner shall immediately repair the Small Wind Energy System to meet all Federal, State and local safety standards within 30 days of receipt of the Code Enforcement Officer's written determination. A facility that does not generate electricity for twelve (12) consecutive months shall be deemed a discontinued use and shall be removed from the property by the owner within 120 days of receipt of notice from the municipality, unless the owner provides information that the Code Enforcement Officer deems sufficient to demonstrate that the project has not been discontinued and should not be removed. The owner's failure to comply with the above provisions within its time limitation shall constitute sufficient grounds for the Code Enforcement Officer to obtain a court order, in the interest of the safety of the public, to enter the owner's property and to dismantle the Small Energy Wind System at the owner's expense.
12. Insurance. If, after examining the documents submitted pursuant to Section 5, above, the Code Enforcement Officer determines, in his or her sole discretion, that a collapse or other failure of the Small Wind Energy System could threaten or endanger persons, buildings, vehicles, vegetation or other features of abutting properties, the owner shall be required to submit proof of adequate liability insurance against such collapse or failure as a condition precedent to the commissioning of the Small Wind Energy System. The insurance shall be maintained for as long as the Small Wind Energy System remains in place. The insurance policy shall name the Town as an additional insured under its terms and shall require the insurance company to give the Town thirty (30) days' written notice prior to terminating the policy.

Z. Transmission Lines

1. Transmission lines and structures built in existing corridors may exceed the height restrictions set forth in this ordinance provided that all other dimensional standards and performance standards are met, but shall not exceed an average of greater than 80' within a single project. This section shall not allow steel lattice-type structures. An applicant wishing to exceed the height requirements of the ordinance shall be required to submit a visual

impact analysis prepared by a qualified professional as part of the site plan review process. This analysis must identify the potential visual impacts on existing businesses and homes, scenic roads, other scenic resources, and public recreation areas, within the viewshed of the proposed transmission corridor. This analysis must use the methodology as described in “*Protecting Local Scenic Resources – Community Based Performance Standards.*”¹

For the purposes of this analysis, the limits of the viewshed shall not exceed one mile from the transmission corridor, unless there is substantial evidence that the proposed transmission line or structure would be visible beyond that distance. The analysis must, at a minimum, quantify the following based on Table 1 below.

2. In its review of a proposed project, the Planning Board shall consider the following visual elements in determining the off-site impact of the project.
 - a. Landscape compatibility, which is a function of the sub-elements of color, form, line and texture. Compatibility is determined by whether the proposed activity differs significantly from its existing surroundings and the context from which they are viewed such that it becomes an unreasonable adverse impact on visual quality.
 - b. Scale contrast, which is determined by the size and scope of the proposed activity given its specific location within the viewshed.
 - c. Spatial dominance, which is the degree to which an activity dominates the whole landscape composition or dominates the landform, water bodies, or sky backdrop within the viewshed.

Table 1
Assessing Visual Impacts

Visual Element	Sub-Element	Indicators	Scoring (points)	<u>Visual Impact based on Impact Severity Rating</u>
Landscape Compatibility (rate each indicator)	Color	Significantly different color, hue, value chroma (0-3 points with 0 = no impact and 3 = severe impact)		27-36 points - Severe Visual Impact 18-26 points - Strong Visual Impact 9-17 points - Moderate Visual Impact
	Form	Incompatible dimensional shape with landscape surroundings (0-3 points with 0 = no impact and 3 = severe impact)		
	Line	Incompatible edges, bands, or silhouette lines (0-3 points with 0 = no impact and 3 = severe impact)		
	Texture	Incompatible textural grain, density, regularity or pattern (0-3 points with 0 = no impact and 3 = severe impact)		
Scale Contrast (select only one indicator)		Major scale introduction/intrusion (12 points)		
		One of several major scales or major objects in confided setting (8)		

¹ “*Protecting Local Scenic Resources – Community Based Performance Standards.*” Faunce, 2007. Publication is available from the Maine State Planning Office.

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	<i>points)</i>		0-8 point - Negligible Visual Impact
	Significant object or scale <i>(4 points)</i>		
	Small object or scale <i>(0 points)</i>		
Spatial Dominance	Object/activity dominates or is prominent in the whole landscape composition OR is prominently situated within the landscape OR dominates landform, water, or sky backdrop <i>(0-12 points with 0 = no impact and 12 = severe impact)</i>		
Impact Severity Rating (total points)			

3. Using the Visual Impact Matrix (Table 2), the Planning Board shall determine the level of mitigation effort required to impacted properties. If mitigation is required, based on Table 2, the applicant shall submit a mitigation strategy to the Planning Board. This strategy may include, but shall not be limited to, either singly or in combination, the following:
 - a. Redesign or relocation of the project to reduce the impact severity rating to E. This may include siting any portion of the project at a different location on the property of an existing proposal, or siting any portion of the project on another property,
 - b. Addition of screening elements (e.g. trees, shrubs or earthen berms), or
 - c. A monetary offset sufficient to compensate, in full or in part, for the loss in market value to affected properties if the height restriction is increased. Such loss in market value shall be determined by an appraisal completed by a Maine certified general appraiser that estimates the potential diminution of value if the structure height limit is exceeded.
 - d. Off-site measures that, in the opinion of the Planning Board, are reasonable mitigation for visual impacts that may result from the transmission line in the case of Scenic Roads and Public Recreational areas.

The applicant must demonstrate that the proposed mitigation strategy will reduce impacts to affected properties to the greatest extent practicable. Any such mitigation proposal is subject to review and approval of the Planning Board, which may require specific revisions to the strategy if it determines that the visual impact is still unacceptable. Such revisions may include up to full compensation for the loss in market value as described in subsection X.3.c, above. As used in Section X, "impacted properties" means those properties identified in Table 2 that a visual impact analysis demonstrates are subject to "severe", "strong", or "moderate" visual impacts.

Table 2 Potential Visual Impact Matrix					
Type of property	Impact Severity Rating (from Table 1)				Level of Mitigation Effort Required*
	Severe 27-36	Strong 18-26	Moderate 9-17	Weak/None 0-8	
Public Recreational	A	B	C	E	A Unacceptable – High level of visual contrast in line, form, color or texture between existing high quality landscape and development proposal; view of water or other significant visual resource obstructed. May be grounds for project denial. B Acceptable with Major Mitigation – High degree of contrast on landscape of medium significance; moderate degree of contrast on highly significant landscape. Project re-design necessary C Acceptable with Mitigation – Some modification to project siting or design necessary to achieve better landscape “fit”. D Acceptable with Minor Mitigation – Relatively minor adjustments to plan or siting necessary to achieve a higher level of project compatibility. E Low/No Impact – No perceptible change to the visual landscape. No mitigation required.
Scenic Road	B	C	D	E	
Private Home, Business, or Organization	C	D	D	E	
Private Vacant Land	E	E	E	E	

* Where project adjustments or mitigation cannot reduce Impact Severity Rating to outcome “E”, a monetary offset shall be paid to impacted properties in accordance with X.3.c.

AA. Wildlife/Natural Areas Preservation

Any project affecting significant wildlife or fisheries habitat, as identified in the 1998 Comprehensive Plan or current Beginning with Habitat maps for Waldoboro, shall include mitigation measures aimed at minimizing the adverse impacts of development on these resources. Such mitigation shall include as a minimum:

1. Clustering. The clustering of the project to protect to the greatest extent the wildlife habitat pursuant to the standards of Article 5 Section R., Open Space Subdivisions.
2. Vegetation. Efforts to preserve the existing vegetation in such a manner that the only vegetation cut or removed shall be necessary for the actual construction involved. Specific vegetation to be retained and to be removed shall be indicated on the development plan;
3. Erosion control. Best Management Practices for erosion control shall be used.

BB. Wireless Telecommunications Facilities

1. Applicability. This Section applies to all construction and expansion of wireless telecommunications facilities, including communication facilities and towers, except as provided in subsection 2.
2. Exemptions. The following are exempt from the provisions of this Ordinance:
 - a. Amateur (ham) radio stations. Amateur (ham) radio stations licensed by the Federal Telecommunications Commission (FCC).

- b. Antennas as accessory uses. Antennas that are accessory uses, including parabolic type antennas less than 7' in diameter and antennas permitted by FCC Over-the-Air Reception Devices "OTARD" preemption.
 - c. Maintenance or repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
 - d. Temporary wireless telecommunications facility. Temporary wireless telecommunications facility, in operation for a maximum period of 180 days.
 - f. Broadband Internet Infrastructure. Communications towers 120' or shorter, and 24" or less in diameter, used primarily for delivering Broadband Internet Access to fixed locations in accordance with FCC rules shall be exempt from the location requirement in 4.a. below, and are permitted in all zones except the Historic Village District. The Planning Board may waive any of the submission requirements below if it determines that the project would not have a negative adverse impact on adjacent properties and uses.
3. Site plan review application. Wireless telecommunications facilities, including expansions of existing facilities, shall comply with the application requirements of Article 6, unless such requirements are waived by the Planning Board in accordance with Article 6, Section B.4 and shall also include the following additional information:
- a. FCC License. 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 will comply with FCC regulations.
 - b. Topographical map. A USGS 7.5 minute topographic map showing the current location of all structures and wireless telecommunications facilities more than 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e. within thirty (30) days of the date the application is filed) from the FCC Tower Registration Database. Include documentation of longitude and latitude.
 - c. Site plan. A site plan 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. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American National Standards Institute (ANSI) and other applicable technical codes.
 - d. Elevation drawings. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.
 - e. Landscaping plan. 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.
 - f. Photo simulations. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-

application review. 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.

- g. Description of network. 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.
- h. No existing site. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, which may consist of any one (1) or more of the following:
 - 1) None in coverage area. Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.
 - 2) Existing facilities - insufficient height. 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.
 - 3) Existing facilities - insufficient strength. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 - a) Equipment. 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.
 - b) Electromagnetic interference. 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.
 - c) Insufficient space. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - 4) Unreasonable fees. For facilities existing prior to January 11, 2000, 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 January 11, 2000 or amendment thereto.
- i. Agreements. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - 1) Timely response. Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - 2) Negotiation with third parties. Negotiate in good faith for shared use of the

wireless telecommunications facility by third parties;

- 3) Shared use. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for collocation;
 - 4) Allow Local and County emergency operations communication devices to be installed and maintained free of charge.
 - 5) Reasonable charge. 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.
- j. Surety. A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

4. Standards

- a. Location. A wireless telecommunications facility is permitted only within 300 yards of Route 1.
- b. Siting on municipal property. If an applicant proposes to locate a new wireless telecommunications facility on municipal property, or expand an existing facility on municipal property, the applicant must show the following:
 - 1) Municipal regulations. The proposed location complies with applicable municipal policies and ordinances.
 - 2) Interference. The proposed facility will not interfere with the intended purpose of the property.
 - 3) Liability insurance. 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 collocation. A new or expanded wireless telecommunications facility and related equipment must be designed and constructed to accommodate future collocation of at least three additional wireless telecommunications facilities or providers. Broadband wireless infrastructure is exempt from collocation requirements under this section. Collocation shall not be considered an expansion.
- d. Height. The maximum height of new or expanded wireless telecommunications facilities shall be 195 feet. The facility shall be designed to collapse in a manner that does not harm other property.
- e. Setbacks. A new or expanded wireless telecommunications facility must comply with the setback requirements set forth in this Ordinance, or be set back 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. 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. The base of a new or expanded wireless telecommunications facility 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 or expanded wireless telecommunications facility must be fenced with a secured perimeter fence of a height of eight (8) feet to discourage trespass on the facility and to discourage climbing on any structure by trespassers. Alternatively, the Planning Board may allow anti-climb plates provided they extend a minimum of 8' above finished grade.
 - h. Lighting. A new or expanded wireless telecommunications facility must be illuminated as necessary to comply with FAA or other applicable State, federal and local requirements or Site Plan Review conditions. 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 or expanded 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. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
 - j. Structural standards. A new or expanded 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. Noise. Operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 7:00 a.m. and 10:00 p.m. are exempt from the noise standards in Article 4, Section I.
5. Standard conditions of approval. Conditions of approval shall be a part of any approval issued by the Planning Board. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include agreements, see Article 5 Section BB.
 6. Abandonment. A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of a written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not been abandoned.

If the Owner fails to show that the facility has not been abandoned, 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.

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If a surety has been given to the municipality to ensure 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.

CC: Methadone Clinics

1) Location. Clinics must be located within Waldoboro's Route 1 Commercial A District.

2) Requirements.

- a. The approval by the Planning Board shall be contingent upon receipt of the appropriate state certification.
- b. Parking for the clinic staff and patients must be provided on site. Parking must be sufficient to provide ample space during peak business activity. (See standards outlined in Article 4, Section J.)
- c. Inside seating, in waiting and treatment rooms, must be available for the scheduled patients at all times. Waiting or queuing of patients outside of the clinic building will not be tolerated. The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on peak business activity.
- d. Evidence of on-site security. At a minimum, methadone clinics shall have door and window intrusion alarms with audible and police notification components.
- e. No more than one (1) Methadone Clinic/Opioid Treatment Facility shall be located in the Town of Waldoboro.

DD: Medical Marijuana Dispensary and Cultivation Facility

1) Location. Registered Dispensaries and Cultivation Facilities must be located within Waldoboro's Route 1 Commercial A District.

2) Requirements.

- a. The approval by the Planning Board shall be contingent upon receipt of the appropriate state certification.
- b. All activities of registered dispensaries and/or cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage shall be conducted indoors and shall not be visible from outside.
- c. Parking for staff and patients must be provided on site. Parking must be sufficient to provide ample space during peak business activity. (See standards outlined in Article 4, Section J.)
- d. Evidence of on-site security. At a minimum, registered dispensaries and registered cultivation facilities shall have door and window intrusion alarms with audible and police notification components.
- e. Video surveillance. Registered dispensaries and registered cultivation facilities shall have recorded video surveillance covering all plants and the entire exterior. For registered cultivation facilities, the recorded video surveillance shall operate 24 hours a day, seven days a week and for the registered dispensaries shall, at a

minimum, operate at all times that the facility is not open to patients. Records of surveillance shall be kept for a minimum of 30 days.

- f. No more than one (1) registered cultivation facility and one (1) registered dispensary shall be located in the Town of Waldoboro.

EE. Free-Standing Commercial Kiosks.

All free-standing commercial kiosks less than 100 square feet in area may be located in existing parking areas and on lots without having to meet the minimum lot-size requirements for a primary building or use.

All free-standing commercial kiosks having more than 100 square feet in area shall conform to all applicable dimensional requirements for a principal building or use.

Kiosks shall be designed to safely accommodate traffic and be incorporated into the traffic flow pattern of the area. Traffic entering and exiting the kiosk shall be directed through the use of signs, striping, raised islands, or similar features.

The area dedicated for the kiosk, including all queuing areas, shall not reduce the required parking spaces necessary for adjacent uses.

The kiosk shall not have a separate entrance or exit from the road. The existing entrances and exits to the area shall be used.

FF. Rear-Lot Access and Frontage

New rear lots proposed to be placed behind a legally conforming lot that has existing road frontage shall be deemed to comply with the minimum road frontage requirements if they meet all of the following:

The lot conforms to all dimensional requirements for the district in which it is located except for road frontage.

The lot has access which conforms to the applicable requirements of the Street Access, Driveways, Street/Road Construction Standards contained in this Ordinance.

The necessary right-of-way to access the rear lot does not reduce the road frontage of the existing road lot below the minimum established for the district in which it is located.

That portion of the new rear lot which abuts the rear lot line of the front lot shall extend a minimum length equal to the minimum road frontage required for the land use district in which it is located and extend back a distance equal to the required front setback.

The front lot line for the purposes of conforming to the front structure setback requirements for the rear lot shall be measured from the rear lot-line of the existing road frontage lot.

GG. Cottage Industry

All cottage industries shall comply with the following :

- Each cottage industry shall be considered a principal use and shall comply with all applicable dimensional requirements. A cottage industry which only uses existing structures

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on a property is exempt from meeting the lot size, road frontage and set-back requirements.

- Cottage industries which grow or exceed these standards shall not be considered as a non-conforming use and shall be treated as a new use subject to the applicable requirements in this Ordinance.
- Any proposed exterior storage of goods shall be completely screened from the road and neighboring properties. Any exterior storage shall not exceed 2,000 square feet in area.
- Outside processing, assembling, any manufacturing activity or similar activity is prohibited.

ARTICLE 6. SITE PLAN AND SUBDIVISION REVIEW

A. Purpose

The purpose of this Article is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Waldoboro, to protect the environment and to promote the development of an economically sound and stable community. In reviewing site plans and approving subdivisions, the Planning Board shall consider the requirements of this Article before granting approval, approval with conditions, or denial, shall make findings of fact that the provisions of this Article have been met and that the proposed subdivisions meet the guidelines of the State law, 30-A, M.R.S.A. § 4401-4407.

B. Applicability Provisions

1. Activities requiring site plan review.

The following land use activities in the Town of Waldoboro must receive site plan approval and/or subdivision approval pursuant to the provisions of this article:

- a. Table of land uses. All land use activities set forth in Article 3, Section G. as requiring site plan approval from the Planning Board.
- b. Subdivisions. All subdivisions as defined by 30-A M.R.S.A. § 4401 including the division of any existing building or the construction of any new structures or buildings containing three (3) or more units.
- c. New Nonresidential Buildings or Structures. The construction or placement of any new building or structure for commercial, office, industrial, recreational or institutional uses, as specified in the Schedule of Uses.
- d. Expansion of Existing Nonresidential Buildings or Structures. The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five (5) year period by more than five hundred (500) square feet.
- e. Construction of New Multifamily Housing or the Enlargement of Existing Multifamily Housing:
 1. The construction of a residential building containing three (3) or more dwelling units.
 2. The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.
- f. Changes in Use of Existing Buildings or Structures
 1. The conversion of an existing building from residential to nonresidential use.
 2. The conversion of an existing nonresidential use to another nonresidential use when the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to

the standards and criteria of site plan review.

3. The conversion of an existing nonresidential building or structure in whole or in part, into three (3) or more dwelling units within a specified period (i.e. five (5) years).
 - g. Expansion of the Amount of Impervious or Paved Surfaces. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than 1,500 square feet within a five (5) year period.
 - h. Commercial Uses of Land That Do Not Involve Buildings or Structures. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, groundwater extraction, extractive industries, and other nonstructural nonresidential uses.
2. Activities not requiring site plan review.

The following activities do not require approval from the Planning Board under the provisions of this Article. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:

- a. All land use activities set forth in Article 3, Section G. as not requiring site plan approval from the Planning Board.
3. Prohibition.
4. Waivers.

In cases where development or expansion will not significantly change the nature or intensity of the use or the exterior dimensions of any existing structure, or where a proposed use is deemed by the Planning Board to have no discernable impact on adjoining property or the environment or public infrastructure, the Planning Board may waive the review procedure and all or portions of the submission requirements in order that the project may be expedited if the information is not required to determine compliance with the standards of this Ordinance.

Waivers shall be issued in writing and shall state the reason. No changes shall be made in any project which has received subdivision or site plan approval without approval of that change by the Planning Board.

C. Site Plan and Subdivision Submission Requirements

Applications for subdivision or site plan review shall be submitted on application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer no later than twenty-one (21) days prior to the meeting at which the item is to be heard. The Code Enforcement Officer shall forward the application package to the Planning Board ten (10) days prior to the meeting. The submission shall contain the following information and exhibits unless specifically waived by the Planning Board.

1. Application Submittal. The applicant shall submit twelve (12) copies of a fully completed and signed copy of the application form to the Code Enforcement Officer, including a completed department head sign-off sheet.
2. Evidence of Fee Payment. The applicant shall present evidence of payment of the application and applicable technical review fees.
3. Plan Submittals and Map Scale. The applicant shall submit three sets of all plans no larger than 24" by 36" at a scale of thirty (30) feet to the inch and twelve (12) copies of all site plans, maps and drawings no larger than 11" x 17". All plans should include the date, magnetic north arrow, graphic scale, Planning Board approval block, and the name, registration number and seal (on final plans only) of the person who prepared the plan(s).
 - a. Locus map. A locus map shall be included on the site plan which shows the general location of the site within the municipality.
 - b. Location map. The applicant shall include a location map on the site plan or separate sheet, drawn at a scale of not over one hundred (100) feet to the inch, which shows all features within three hundred (300) feet of the project boundary. The location map shall include the tax map and lot number of the parcel or parcels on which the project is located.
 - c. Boundary survey. Identify the bearings and length of all property lines of the property to be developed and the source of the information including surveyor identification and the location of all required building setbacks, yards, and buffers and the boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries within three hundred (300) feet of the proposed development.
4. Existing Site Plan(s). The existing site plan(s) shall show the following information and existing conditions and any limitations for its use and development.
 - a. Title block. The record owner's name, address, project title and location of the subdivision or site plan and the applicant's name and address if different.
 - b. Land use district classification(s). Identify on the site plan the land use district(s) classification for the project.
 - c. Existing contour lines. Contour lines at intervals of not more than five (5) feet unless otherwise prescribed by the Planning Board.
 - d. Buildings. The location, dimensions, size, ground floor elevation and setbacks of existing buildings.
 - e. Streets and driveways. The location, names and widths of existing streets, driveways, parking and loading areas, walkways and right-of-ways within or adjacent to the proposed development.
 - f. Utilities. The location, dimensions and size of all existing utility locations for sewer and water mains, wells, on-site subsurface sewerage disposal systems,

- underground tanks or installations, gas, power and telephone lines and poles or other utilities including size and elevation of buried or underground utilities on the property to be developed, and on abutting streets, or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
- g. Significant features. The location of drainage courses, culverts, catch basins, wetlands, stone walls, graveyards, fences, stands of trees, and other significant natural areas, wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas (consult Beginning with Habitat maps for Waldoboro), sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.
 - h. Wetland delineation. A full delineation of all wetland boundaries by a professional wetlands delineator.
 - i. Drainage. The direction of existing surface water drainage across the site.
 - j. Signs. The location, front view, dimensions, and lighting of existing signs.
 - k. Easements. The location and dimension of any existing easements and copies of existing covenants or deed restrictions.
 - l. Fire protection. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.
 - m. Name of consultant. The name, registration number, and (on final plans only) seal of the person who prepared the plan, if applicable.
5. Proposed Site Plan(s) or Subdivision Plan. The proposed site plan or subdivision plan and supporting materials must provide a picture of what changes will be made on the site and how they will be carried out. In addition to the existing site plan(s), the applicant shall provide typical site development plan(s) including the following information. The information about the development proposal should be of a preliminary nature, not detailed construction drawings.
- a. Title block. Proposed subdivision or site plan name or identifying title.
 - b. Lots, lot lines and temporary markers. Number of lots, proposed lot lines and location of temporary markers adequately located to enable the Planning Board to locate lots readily and appraise basic lot layouts in the field.
 - c. Contour lines. All proposed contours and proposed finished grade elevations of the entire site and the system of drainage proposed to be constructed. Contour lines shall be at two (2) foot intervals unless otherwise prescribed by the Planning Board.
 - d. Road, driveways & parking plan. The location, names, sight distances, dimensions and design details of all existing and proposed driveways, roads, easements, parking and loading areas, and walkways. All proposed improvements shall fully comply with applicable design standards and requirements.
 - e. Rights-of-way and easements. All proposed rights-of-way, easements and other legal restrictions which may affect the premises in question.

- f. Proposed building location. The location, dimensions, including heights and ground floor elevations, setback dimensions, and buffers of all proposed buildings or building expansions on the site and proposed use thereof shall be provided.
 - g. Signs. The proposed location, front view, dimensions, materials and size of all proposed signs, together with the material for securing the signs, and all permanent outdoor fixtures.
 - h. Soil erosion and sedimentation control plan. An erosion and sedimentation control plan shall be prepared in accordance with the soil erosion and sedimentation control plan standard in Article 4.
 - i. Storm water management plan. A storm water management plan shall be prepared by a registered professional engineer and be designed in accordance with the storm water management standard in Article 4.
 - j. Public use. Location of all parcels to be dedicated to public use such as parks or open space, the condition of such dedication, and the location of all natural features or site elements to be preserved.
 - k. Reserved.
 - l. Utility plan. A utility plan showing the design details and provision for water supply, wastewater disposal, the location and nature of electrical, telephone, cable TV, and any other utility services to be installed on the site.
 - m. Landscaping plan. A proposed plan for landscaping, buffering and screening should be provided. The applicant shall provide a planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.
 - n. Professional certification. The name, registration number and seal (on final plans only) of the architect, engineer, landscape architect, and/or similar professional who prepared the plan.
 - o. Approval block. Space shall be provided on the plan drawings for the signatures of the Waldoboro Planning Board and date together with the words, "Approved: Town of Waldoboro, Maine Planning Board."
6. Written Supporting Information. The applicant shall submit twelve (12) copies of all written supporting information. Evidence shall be submitted that document that all performance standards contained in this Ordinance and State law can be met and that all of the subdivision or site plan review criteria will be satisfied. The written material must be contained in a bound report and contain the following:
- a. Evidence of legal interest. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title, or interest in the property.
 - b. General description of proposed use. A general description of the proposed use or activity.

- c. Soils. Evidence that the soils will support the project.
- d. Subsurface disposal system report. An on-site soils investigation report by a soil scientist certified by the State of Maine Department of Human Services. This report shall contain the types of soil, location of test sites and proposed location and design of the most appropriate and suitable subsurface sewerage disposal systems of each lot in the project and be signed by the soil scientist.
- e. Traffic impact analysis. When required, a traffic impact analysis shall be prepared in accordance with the standards of Article 4 Section U.
- f. Evidence of technical capability. Documentation that the applicant has retained qualified contractors and consultants to supervise, construct, and inspect the proposed development.
- g. Evidence of financial capability. Documentation that the applicant has adequate financial resources to construct the proposed improvements. Evidence could include a letter from a financing institution regarding a loan, letter of credit, or bank account or a certified accountant's or annual report indicating adequate cash flow to cover anticipated expenses. The applicant should document a semi-detailed budget estimate for all costs associated with the capital investment including: engineering, legal, financial and capital expenses and documentation on financing package available to cover the project expenses.
- h. Construction schedule. A schedule of construction, including anticipated beginning and completion dates.
- i. Water and sewer demand. The estimated demand for water and sewage disposal together with the location and dimension of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.
- j. Utility statement. A written statement from utilities providing services to the project as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, and the capacity of the sewer system to accommodate additional wastewater if public water or sewerage will be utilized.

D. Review Procedures

1. Informal Pre-application Conference.

Prior to submitting a formal subdivision or site plan review application, the applicant or his/her representative may request a pre-application conference with the Planning Board. A pre-application conference is strongly advised. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under 1 M.R.S.A. § 302. No decision on the substance of the plan shall be made at the pre-application conference.

a. Purpose. The purpose of the pre-application conference is:

- 1) To give the applicant the opportunity to explain the nature of the project

before submission of an application.

- 2) Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal.
 - 3) Allow the applicant to understand required submissions and the development review process.
 - 4) Identify issues that need to be addressed in future submissions.
 - 5) Make the applicant aware of any opportunities for coordinating the development with community policies, programs or facilities.
- b. Site inspection. In addition, the Board may schedule a site inspection if deemed necessary and resolve any requests for waivers and variations from the submission requirements.
- c. Information required. There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to discuss the following with the Board:
- 1) The proposed site, including its location, size and general characteristics.
 - 2) The nature of the proposed use and potential development.
 - 3) Any issues or questions about existing municipal regulations and their applicability to the project.
 - 4) Any requests for waivers from the submission requirements.

2. Review Procedure.

The procedures for site plan review and subdivision review are as follows:

- a. Step One. Submission of completed application to the Code Enforcement Officer. The applicant shall submit twelve (12) copies or the requested number of copies of his/her application and supporting information required twenty-one (21) days prior to the meeting at which the item is to be heard.
- b. Step Two. Code Enforcement Officer Review.
- 1) Dated receipt. The Code Enforcement Officer shall issue the applicant a dated receipt.
 - 2) Fees submitted. The applicant shall provide the Code Enforcement Officer with the applicable fees.
 - 3) Review for completeness. The Code Enforcement Officer shall initially review the application and determine whether or not it is complete.
 - 4) Notice of incomplete application. If the application is found to be incomplete, the Code Enforcement Officer shall, within ten (10) work days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, steps one

and two shall be repeated.

- 5) Application forwarded. The Code Enforcement Officer shall forward copies of the application and supporting documents to the members of the Planning Board ten (10) days prior to the meeting of the Planning Board and copies shall also be distributed to the road commissioner, conservation commission, fire chief, police chief and director of Emergency Management Services; if the development will be using the municipal water system, to the Waldoboro Water Department; if the development will be using the municipal sewerage facilities, to the superintendent of the Waldoboro Utility District; and if it is a residential development, to the superintendent of schools.
 - 6) Notice to abutters. Abutting property owners shall be notified by mail, seven (7) days prior to the meeting, by the Town, of all pending project applications. This notice shall indicate the time, date and place of Planning Board consideration of the application.
 - 7) Review Comment(s) Submittal. Written review comments from all the municipal officials who received notice.
- c. Step Three. Planning Board review. At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall:
- 1) Code Enforcement Officer report. Hear any report of the Code Enforcement Officer.
 - 2) Applicant's response. Hear any comments of the applicant regarding the Code Enforcement Officer's report.
 - 3) Request for waivers. Hear any requests from the applicant for waivers pursuant to Article 6, Sections B and D.
 - 4) Determination of completeness. Determine whether or not the application is complete.
 - 5) Notice of incompleteness. If the application is determined to be incomplete, the Board shall inform the Code Enforcement Officer of the information required to make the application complete. The Code Enforcement Officer shall, within ten (10) work days, inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, steps one, two and three shall be repeated.
 - 6) Decide on public hearing. If the application is determined to be complete, the Planning Board shall deem the application pending and shall determine whether or not to set the matter to public hearing. The Planning Board may decide to hold a public hearing to maximize public input and provide the applicant with more of an opportunity to prepare a response to any criticism of the proposal before it. One indicator of when to hold a public hearing is the amount of interest an application generates when it is submitted. If the Planning Board receives many telephone calls or a large group of people show up for the Planning Board meeting, then a public hearing is probably in order.

- a) Hearing date. If a public hearing is set, such hearing shall take place within thirty (30) days of the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record at a public meeting.
- b) Public hearing rules. Public hearing held for the purpose of hearing testimony regarding proposals requiring approval under this Ordinance, and notice thereof, shall be governed by Article 6, Section E.

d. Step Four. Planning Board deliberation and decision.

- 1) Within sixty (60) days of the completed application being placed on the Planning Board agenda if no public hearing is held, the Planning Board shall reach a decision on a development application and shall inform the Code Enforcement Office of its decision and the reason therefor. This time period may be extended by written, mutual agreement of the Planning Board and the applicant. If a public hearing is held, a decision shall be made within thirty (30) days of the public hearing, or within such other time limit as may be mutually agreed to.
- 2) If no public hearing is held, the Planning Board may at its discretion act upon the application at the same meeting at which completeness is determined.
- 3) The Planning Board deliberations shall include review for compliance with Article 3 (Land Use Districts), Article 4 (General Performance Standards), Article 5 (Specific Performance Standards), Article 7 (Shoreland Zoning), Article 8 (Floodplain Management), Article 9 (Hazardous Materials & Waste), Article 10 (Non-conforming Uses), and Article 12 (Wellhead Protection).

e. Step Five. Code Enforcement Officer permit.

Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall within ten (10) working days, issue with conditions prescribed by the Planning Board or deny a permit.

3. One (1) Year Approval Limitation.

Unless a specific extension of time is granted by the Planning Board, the approval of the applicant's preliminary plan shall expire one (1) year from the date of approval.

4. Final Review

- a. Within one (1) year. The final plat shall be submitted within one (1) year after the date of approval of the preliminary plan.

If the proposed subdivision or site plan falls within the jurisdiction of and is subject to review by the State of Maine Board of Environmental Protection, then the approval of the Board of Environmental Protection shall be secured in writing before official submission of the final plat.

- b. Plat to be attested. The approval of a final plat shall be attested on the original transparency and three (3) copies by the signatures of a legal majority of the

Planning Board.

- c. Filing. Two (2) signed copies of the final plat, as approved, shall be filed with the municipality, one (1) with the assessors and one (1) with the Planning Board. The applicant shall be required to record and file the signed original transparency of the final plat with the County Registry of Deeds within thirty (30) days of its approval by the Planning Board.
- d. The final plat shall show the following:
 - 1) Preliminary plan requirements. All the information required for the preliminary plan and amendments thereto excepting that information not deemed necessary by the Planning Board.
 - 2) Surveyor. Date and seal of the registered land surveyor who prepared the final plat.
 - 3) Streets. Existing and proposed names and lines of all streets, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings.
 - 4) Easements. Location, dimensions and purposes of all easements, areas reserved for or dedicated to public use and areas reserved by the applicant.
 - 5) Lot numbers. Lot numbers and letters in accordance with the prevailing policy on existing tax maps.
 - 6) Permanent markers. Location and description of permanent markers.
 - 7) Performance guarantee. A performance guarantee to secure completion of all public improvements required by the Planning Board (see Article 6 Section G).
 - 8) Land dedication. Written copies of any documents of land dedication, and written evidence that the Board of Selectmen is satisfied with the legal sufficiency of any documents conveying such land dedication.
 - 9) Signature lines. Seven (7) lines for signatures of the Town of Waldoboro Planning Board and a line for date of approval.
 - 10) Building plans. Building plans certified by a professional seal that all construction standards of Article 4, Section C. have been met.
 - 11) Private roads. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan:

"All private roads in the site plan or subdivision not designed and built to Town specification shall remain private roads to be maintained by the developer or the lot owners."
 - 12) A road maintenance agreement prepared by the town's attorney and paid for by the developer shall be recorded with the deed of each property to be served by a common private road. The agreement shall provide for a

method to initiate and finance a private road and maintain that road in good condition, and a method of apportioning maintenance costs to current and future users.

- e. No changes, erasures, modifications or revisions shall be made in any subdivision plan or site plan after approval has been given by the Planning Board, unless the revised plan is first submitted and the Planning Board approves any modifications.
- f. Fees. All applications for final plan approval shall be accompanied by an application fee payable by check to the Town of Waldoboro, Maine.

5. Project Commencement and Completion.

After final approval all projects must be commenced within one (1) year and completed within two (2) years unless a special schedule has been approved or an extension has been granted by the Planning Board.

6. Other Required Permits.

The granting of project approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to 38, M.R.S.A. § 1022, as amended, Maine Department of Environment Protection and United States Army Corps of Engineers approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to site plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards but shall not be deemed conclusive evidence as to compliance.

E. Public Hearing Procedures

Subdivision and site plan review applications shall comply with the following notice and public hearing procedures when required:

1. Newspaper Notice.

The Planning Board may, at its discretion, hold a public hearing regarding any subdivision or site plan proposal. In the event that the Planning Board determines to hold a public hearing on an application for subdivision or site plan approval, it shall hold such hearing within thirty (30) days of receipt of a completed application, and shall cause notice of the date, time and place of such hearing to be given to the person making the application and to be published in a newspaper of general circulation in the Town of Waldoboro, at least twice, the date of the first publication to be at least seven (7) days prior to the hearing.

2. Sequence of Presentation.

- a. Presentation by applicant and his or her attorney and witnesses, without interruption;
- b. Questions through the chairperson to the applicant by Planning Board members and people who will be directly affected by the project (e.g. abutters) and requests for more detailed information on the evidence by the applicant;

- c. Presentation by abutters or others who will be directly affected by the project and their attorneys and witnesses;
 - d. Questions by the applicant and Planning Board members through the chairperson to the people directly affected and the witnesses who made the presentations;
 - e. Rebuttal statements by any of the people who testified previously;
 - f. Comments or questions by other interested people in the audience.
 - g. Once everyone has had the opportunity to be heard to the extent allowed by the Planning Board's procedures, the chairperson should close the hearing. If more time is needed, the Planning Board may vote to extend the hearing to a later date.
3. Denial or Approval.

The Planning Board shall, within thirty (30) days of a public hearing, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval of the proposed subdivision or site plan or granting approval upon such terms and conditions as it may deem advisable to satisfy the performance standards and criteria of 30-A, M.R.S.A., § 4404.

In all instances the burden of proof shall be upon the persons proposing the plans or subdivisions. In issuing its decision, the Planning Board shall make findings of fact as required by 1, M.R.S.A. § 407.

F. Fees

1. Application Fee.

An application for site plan or subdivision review must be accompanied by an application fee made by check payable to the Town of Waldoboro, Maine in accordance with the Schedule of Fees adopted by the Board of Selectmen. This fee is intended to cover the cost of the Town's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. The application fee shall be paid to the Town, and evidence of payment of the fee shall be included with the application.

2. Technical Review Fee.

In addition to the application fee, the applicant will pay all (100%) of the cost for any professional consultants or studies required by the Planning Board in order to make a decision on a site plan or subdivision review. When required, the independent consultant(s) shall report to the Planning Board as to the project's compliance or noncompliance with the applicable provisions of this Article and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information, and may include: (1) an attorney, (2) a community planner, (3) a registered professional engineer, (4) a registered architect, (5) a registered landscape architect, (6) a registered geologist, (7) a licensed soil scientist, (8) a registered land surveyor, or (9) any other registered/licensed professional or independent expert witness deemed fully qualified and mutually acceptable to the Town and the applicant.

3. Establishment of Fees.

The Municipal Officers may, from time to time and after consultation with the Planning Board, establish the appropriate application fees and technical review fees following posting of the proposed schedule of fees and public hearing.

G. Performance Guarantees

1. Types of Guarantees.

With submittal of the application for Final Plan approval, the subdivider or site plan developer shall provide one of the following performance guarantees for an amount adequate to cover 110% the total construction costs of all required improvements for roads, sidewalks, utilities, sewerage collection and treatment, water, storm water controls and solid waste disposal taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- a. Certified check, savings certificate. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- b. Performance bond. A performance bond payable to the Town issued by a surety company;
- c. Letter of credit. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision or site plan, from which the Town may draw if construction is inadequate, or
- d. Conditional approval. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Road Commissioner, Board of Selectmen, and/or Town Attorney.

2. Contents of Guarantee.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of infrastructure construction reviewed and approved by the Town's engineer taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

3. Escrow Account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider or site plan developer, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider or site plan developer.

4. Performance Bond.

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider or site plan developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision or site plan for which approval is sought.

5. Letter of Credit.

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision or site plan and may not be used for any other project or loan.

6. Conditional Agreement.

The Planning Board, at its discretion, may provide for the subdivider or site plan developer to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that up to six (6) lots may be sold or built upon until either:

- a. Board certification. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with this Ordinance and the regulations of the appropriate utilities; or
- b. Performance guarantee. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 8 below.

7. Phasing of Development.

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

8. Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

9. Default.

If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Board of Selectmen,

the Planning Board, and the subdivider or builder. The Board of Selectmen shall take any steps necessary to preserve the Town's rights.

ARTICLE 7. SHORELAND ZONING

A. Purposes

The purposes of this Article are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and land from flooding and accelerated erosion; to protect archaeological and historical resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual, as well as actual, points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

B. Authority

This Article has been prepared in accordance with the provisions of 38 M.R.S.A § 435-449.

C. Applicability

This Article applies to all land areas within two hundred and fifty (250) feet, horizontal distance, of the normal high-water lines of Duckpuddle, Gross, Havener, Kalers, Little Medomak, Medomak, Moosemeadow, Sidensparker, and Tobias Ponds, Medomak River, or a saltwater body; within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a coastal or freshwater non-forested wetland; and within seventy five (75) feet, horizontal distance, of the normal high-water line of a stream as defined. This Article also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland. Article 3, Section F.11.e.1) lists the wetlands identified by the state. On-site studies may show a need to revise this list.

D. Districts and Shoreland Zoning Map

Land Use Map and Shoreland Zoning Map of the Town of Waldoboro (see Article 3). The Land Use Map and Shoreland Zoning Map for the Town of Waldoboro are merely illustrative of the general location. The exact boundaries of the Shoreland Zone shall be determined by on-site inspection and measurement from the normal high-water line or upland edge of a wetland.

1. Certification of Official Shoreland Zoning Map. The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
2. Changes to the Official Shoreland Zoning Map. If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

E. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone below, shall conform to all of the applicable land use standards in Section F. The district designation for a particular site shall be determined from the Official Land Use Map of the Town of Waldoboro.

TABLE 1. LAND USES IN THE SHORELAND ZONE*, **

KEY TO TABLE 1:

Yes - Allowed without a permit (must comply with land use standards)

Blank – Prohibited

PB - Requires approval by the Planning Board, permit to be issued by the Code Enforcement Officer

CEO - Requires permit issued by the Code Enforcement Officer

LPI - Requires permit issued by the Local Plumbing Inspector

* Subject to specific land use standards.

** Land use #3 in the Table relates to the intertidal zone.

Abbreviations:

RP - Resource Protection

LR - Limited Residential

LC - Limited Commercial

GD - General Development

SP - Stream Protection

Commercial Fisheries / Maritime Activities

LAND USES	DISTRICTS					
	SP	RP	LR	LC	GD	CF/MA
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	YES	YES	YES	YES	YES	YES
2. Motorized vehicular traffic on existing roads and trails	YES	YES	YES	YES	YES	YES
3. Motorized vehicular traffic on inter-tidal land						
4. Forest management activities except for timber harvesting	YES	YES	YES	YES	YES	YES
5. Timber harvesting (see Article 7 F. Section 16)	YES	CEO ¹³	YES	YES	YES	YES
6. Clearing or removal of vegetation for approved construction and other allowed uses (see Article 7 F. Section 17)	CEO	CEO ¹	YES	YES	YES	YES
7. Fire prevention activities	YES	YES	YES	YES	YES	YES
8. Wildlife management practices	YES	YES	YES	YES	YES	YES
9. Soil and water conservation practices	YES	YES	YES	YES	YES	YES
10. Mineral exploration						
11. Mineral extraction including sand and gravel extraction (see Article 7 F. Section 14)						
12. Surveying and resource analysis	YES	YES	YES	YES	YES	YES
13. Emergency operations	YES	YES	YES	YES	YES	YES
14. Agriculture (see Article 7 F. Section 15)	YES	PB	YES	YES	YES	YES
15. Aquaculture	PB	PB	PB	YES	YES	YES
16. Principal structures and uses (see Article 7 F. Section 2)						
A. One and two family residential	PB ⁴	PB ⁹	CEO	CEO	CEO	
B. Multi-unit residential			PB	PB	PB	
C. Commercial		¹⁰	¹⁰	PB	PB	PB ⁵
D. Industrial					PB	PB ⁵
E. Governmental and Institutional			PB	PB	PB	PB ⁵
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO	PB ⁵
17. Structures accessory to allowed uses (see Article 7 F. Section 2)	PB ⁴	PB	CEO	CEO	CEO	CEO
18. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland (see Article 7 F. Section 3)						
A. Temporary / seasonal	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
B. Permanent	PB	PB	PB	PB	PB	PB ⁵
19. Conversions of seasonal residences to year-round residences, ex. provision of water and septic	LPI	LPI	LPI	LPI	LPI	
20. Home occupations	CEO	CEO	CEO	CEO	CEO	CEO
21. Private sewage disposal systems for allowed uses (see Article 7 F. Section 11)	LPI	LPI	LPI	LPI	LPI	LPI

LAND USES	DISTRICTS					
	SP	RP	LR	LC	GD	CF/MA
22. Essential services (see Article 7 F. Section 13)	PB ⁶	PB ⁶	PB	PB	PB	PB
A. Roadside distribution lines (34.5 kV and lower)	CEO ⁶	CEO ⁶	YES ¹²	YES ¹²	YES ¹²	YES ¹²
B. Non-roadside or cross-country distribution lines involving 10 poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving 11 poles or more in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB	PB
23. Service drops, as defined, to allowed uses	YES	YES	YES	YES	YES	YES
24. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO ⁵
25. Individual private campsites	CEO	CEO	CEO	CEO	CEO	CEO
26. Campgrounds (see Article 7 F. Section 4)		⁷	PB	PB	PB	
27. Road construction (see Article 7 F. Section 8)	PB	⁸	PB	PB	PB	PB ⁵
28. Driveway construction (see Article 7 F. Section 8)	CEO	⁸	CEO	CEO	CEO	CEO ⁵
29. Parking facilities (see Article 7 F. Section 7)		⁷	PB	PB	PB	PB ⁵
30. Marinas ⁱ¹⁴						
31. Filling and earthmoving of 10 or less cubic yards	CEO ¹⁵	CEO ¹⁵	YES ¹⁵	YES ¹⁵	YES ¹⁵	YES ¹⁵
32. Filling and earthmoving of >10 cubic yards	PB ¹⁵	PB ¹⁵	CEO ¹⁵	CEO ¹⁵	CEO ¹⁵	CEO ¹⁵
33. Signs (see Article 7 F. Section 9 and Article 4, Section N)	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
36. Uses similar to uses requiring PB approval	PB	PB	PB	PB	PB	PB

- (1) In RP not permitted within 75 feet of the normal high water line of great ponds, except to remove safety hazards.
- (2) Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- (3) In RP not permitted in areas so designated because of wildlife value.
- (4) Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- (5) Functionally water-dependent uses and uses accessory to such water-dependent uses only.
- (6) See further restrictions in Article 7 Section F. 13.
- (7) Except when area is zoned for resource protection due to floodplain criteria, in which case approval is required from the Planning Board.
- (8) Only to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case approval is required from the Planning Board.
- (9) Single-family residential structures may be allowed by special exception only according to the provisions of Article 7 Section G.8., Special exceptions. Two-family residential structures are prohibited
- (10) Except for the commercial uses otherwise listed in this Table, such as campgrounds, that are allowed in the respective districts.
- (11) Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- (12) Permit not required, but owner must file a written "notice of intent to construct" with the Code Enforcement Officer.
- (13) No permit required to cut wood for personal use in conformance with Article 7 Section K.16.
- (14) Marinas are prohibited on both fresh and salt water.
- (15) Soil disturbance is prohibited within 75 feet of the normal high water line of fresh or salt water bodies and the upland edge of wetlands and within 100 feet of great ponds and rivers that flow to great ponds except as allowed under the State codes for wells and septic systems.

F. Land Use Standards

All land use activities within the Shoreland Zone shall conform to the following provisions, if applicable.

1. Minimum lot standards
 - a. Lots. All lots shall comply with Article 3, Section H.
 - b. Exclusions. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
 - c. Opposite sides of a road. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
 - d. Lot width. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
 - e. Multiple structures. If more than one (1) residential dwelling unit or more than one (1) principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.
 - f. Reduced lot size. The Planning Board may allow subdivided development on reduced lot sizes in return for open space where the Planning Board determines that the benefits of the cluster approach will prevent the loss of natural features without increasing the net density of the development. The overall dimensional requirements including frontage and lot area per dwelling unit must be met. When determining whether dimensional requirements are met, only land areas within the Shoreland Zone shall be considered.
 - g. Common area. Each shoreland common area shall have a minimum of two hundred (200) feet of shore frontage plus an additional twenty-five (25) feet in shore frontage for each family, lot or residential dwelling unit above five (5) which has access or right of use to the shoreland common area.
 - h. Governmental, institutional, commercial or industrial per principal structure. Within the Shoreland Zone adjacent to non-tidal areas the minimum shore frontage is 300 feet.
2. Principal and accessory structures. All structures shall comply with the setback requirements of Article 3, Section H. and the following:
 - a. Setbacks. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds; rivers that flow to great ponds; salt water bodies; or the upland edge of a coastal wetland. The setback from a freshwater wetland shall be at least seventy-five (75) feet, horizontal distance. Exceptions: In the General Development I District the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance. In the Commercial Fisheries/Maritime Activities District there

shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district, in which case the setback requirements specified above shall apply. Abutting a salt water body or coastal wetland, landscaping (not to include structures) is permitted starting seventy-five (75) feet back from the normal high-water line of the water body or the upland edge of the wetland. A naturally-vegetated shoreland buffer strip must be preserved as described in Section 17. b.

Where uncertainty exists as to the exact location of the normal high-water line the Code Enforcement Officer may choose to make such a determination, or may have the determination made by a qualified professional. If the CEO's decision is unacceptable to the applicant, another determination may be sought from a mutually acceptable professional. If that determination is rejected by either party, the case shall go to the Board of Appeals. The Board may employ expert assistance. All costs, by whomever incurred, shall be borne by the applicant.

In addition:

- 1) Exemptions. The water body or wetland setback provision does not apply to structures which require direct access as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses.
- 2) Coastal Bluffs. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.
- 3) Accessory Structure. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- 4) Authorization to increase. The Planning Board is authorized to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this Article. Instances where a greater setback may be appropriate include, but are not limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

- b. Height. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- c. Flood elevation. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least two (2) feet above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph. (see also Floodplain Management, Article 8 Section C.6. and 7.)
- d. Non-vegetated surfaces. The total area of all structures, parking lots and other non-vegetated surfaces within the Shoreland Zone shall not exceed twenty (20) percent of the lot or a portion thereof located within the Shoreland Zone, including land area previously developed, except in the General Development and Water-Dependent Commercial Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
- e. Retaining walls. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill that meet all of the following conditions:
 - 1) The site has been previously altered and an effective vegetated buffer does not exist;
 - 2) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - 3) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - 4) The total height of the wall(s), in the aggregate, is no more than 24 inches;
 - 5) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - 6) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - 7) A vegetated buffer area must be established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland. The buffer area must meet the following characteristics:

- a) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - b) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - c) Only native species may be used to establish the buffer area;
 - d) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - e) A footpath not to exceed the standards in Section F.17.b. 2) may traverse the buffer.
 - f. Stairways. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
3. Piers, docks, wharves, bridges and other structures extending over or beyond the normal high-water line of a water body or within a wetland:
- a. Siting. Docks or other facilities located over mudflats are permitted for commercially licensed marine-related use. Structures for private or recreational uses are prohibited over mudflats that are active or potential shellfish harvesting areas. Applicants must demonstrate that proposed structures comply with the provisions of the Maine Natural Resources Protection Act (N.R.P.A. Title 38, Section 480). Individual lot owners are encouraged to consolidate the use of docks wherever possible to minimize waterfront congestion.
- New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- b. Appropriate soils. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
 - c. Beach areas. The location shall not interfere with existing developed or natural beach areas.
 - d. Fisheries. The facility shall be located so as to minimize adverse effects on fisheries.
 - e. Size. 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. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

- f. Structure prohibition on docks, wharves. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
 - g. Conversion prohibition on docks, wharves. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
 - h. Structure height on docks, wharves. Except in the General Development District and Water-Dependent Commercial Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure; 38 M.R.S.A. § 480-C.
- 4. Campgrounds. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures, Article 5, Section G, and the following:
 - a. Minimum size. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in calculating land area per site.
 - b. Setbacks. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond and the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- 5. Individual Private Campsites. Individual, private campsites for use for no more than seven (7) months per year and not associated with campgrounds are permitted provided the following conditions are met:
 - a. One per lot. One campsite per lot existing on the effective date of this Article, or thirty thousand (30,000) square feet of lot area within the Shoreland Zone, whichever is less, may be permitted.
 - b. Setbacks. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond or river flowing to a great pond and from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
 - c. Foundations prohibited. 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 to the recreational vehicle.
 - d. Vegetative clearing. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

- e. Sewage disposal plan. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
 - f. Time restriction. When a recreational vehicle, tent or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.
6. Commercial and industrial uses. Commercial and industrial uses shall comply with Article 5 of this Ordinance. The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds, and rivers and streams which flow to great ponds:
- a. Auto washing facilities.
 - b. Auto or other vehicle service and/or repair operations, including body shops.
 - c. Chemical and bacteriological laboratories.
 - d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms.
 - e. Commercial painting, wood preserving, and furniture stripping.
 - f. Dry cleaning establishments.
 - g. Electronic circuit assembly.
 - h. Laundromats, unless connected to a sanitary sewer.
 - i. Metal plating, finishing, or polishing.
 - j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas.
 - k. Photographic processing.
 - l. Printing.
7. Parking areas. Parking areas shall comply with the parking standards in Article 4, Section J, and the following:
- a. Setbacks. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except that in the Water-dependent Commercial Maritime Activities District parking areas shall be set back at least twenty-five (25) feet from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat launching facilities in districts other than the General Development and Water-dependent Commercial Maritime Activities Districts may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

- b. Size. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.
 - c. Size determination. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - 1) Typical parking space:
 - Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - 2) Internal travel aisles:
 - Approximately twenty (20) feet wide.
 8. Roads and driveways. Roads and driveways shall comply with the standards in Article 4, Section T.3 of this Ordinance and the following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.
 - a. Setbacks. Roads and driveways shall be set back at least one hundred (100) feet from the normal high-water line of a great pond or a river that flows to a great pond, the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline, tributary stream, or wetland due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this Section except for that portion of the road or driveway necessary for direct access to the structure.
 - b. Existing road expansion. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.
 - c. Resource protection district prohibition. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

- d. Slope. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection 18.
 - e. Standards. Road and driveway grades shall be in conformance with the standards in Article 4, Section T.3, of this Ordinance.
 - f. Buffer strip. In order to prevent road surface drainage from directly entering water bodies, tributary streams or wetlands, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip of at least fifty (50) feet in width plus two times the average slope percentage converted to feet, between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
 - g. Drainage facilities. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
 - 1) Spacing. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

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
 - 2) Drainage dips. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
 - 3) Road grade 10% or more. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle down slope from a line perpendicular to the center line of the road.
 - 4) Culverts. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
 - h. Maintenance. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
9. Signs. Signs shall comply with the sign standards of Article 4, Section N. and the following provisions governing the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

- a. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area. In the Limited Commercial District, however, such signs shall not exceed thirty-two (32) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
 - b. Name signs are allowed, provided provided they shall not exceed two (2) signs per premises, and shall not exceed two (2) square feet in the aggregate.
 - c. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
 - d. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
 - e. Signs relating to public safety shall be allowed without restriction.
 - f. No sign shall extend higher than sixteen (16) feet above the ground.
 - g. Signs may be illuminated only by shielded, non-flashing lights.
10. Storm water runoff. Storm water runoff shall comply with Article 4, Section R, and the following:
- a. Minimize runoff. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
 - b. Maintenance. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.
11. Septic waste disposal
- a. Installation. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (Rules). The Rules, among other requirements, include:
 - 1) Setback. The minimum setback for new subsurface sewage disposal systems shall be no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.
 - 2) Holding Tanks: A holding tank is not allowed for a first-time residential use in the shoreland zone.

- 3) Replacement systems. Replacement systems shall meet the standards for replacement systems as contained in the Rules. The Rules are available for review at the Town Office.
12. Wells. All wells shall be installed in accordance with all adopted State laws, codes and regulations.
 13. Essential services
 - a. Location. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
 - b. Prohibited location. The installation of essential services, other than roadside distribution lines, is not permitted in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
 14. Mineral exploration and extraction. Mineral exploration and extraction, including sand and gravel extraction, is prohibited in the Shoreland Zone.
 15. Agriculture
 - a. Manure guidelines. All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. § 4201-4209).
 - b. Manure storage. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond, or a river flowing to a great pond, or within one hundred (100) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
 - c. Soil tillage in excess of 40,000 square feet. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Article. Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.
 - d. Tilling setback. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or other water bodies; nor within seventy-five (75) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this Article (and not in compliance with this provision) may be maintained.
 - e. Setbacks - livestock grazing. After the effective date of this Article, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or other water bodies, nor within seventy-five (75) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities and which is not

in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

16. Timber harvesting

- a. In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - 1) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - a) The ground is frozen;
 - b) There is no resultant soil disturbance;
 - c) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - d) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - e) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - 2) Beyond the 75 foot strip referred to in Section F.16.a.1 above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- b. Except in areas as described in Section F.16.a. above, timber harvesting shall conform with the following provisions:
 - 1) 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 is permitted. In addition:
 - a) Within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - b) At distances greater than one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water

bodies or the upland edge of a 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, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

- 2) Timber harvesting operations exceeding the 40% limitation in Section F.16.b.1) above, 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 accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or 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. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- 4) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - a) Surface waters are frozen; and
 - b) 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.
- 6) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- 7) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

17. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- a. Resource Protection District prohibition. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- b. Other areas. Except in areas as described in Section P 17a, above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond and from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- 1) Abutting a salt water body or coastal wetland, landscaping (not to include structures) is permitted starting seventy-five (75) feet back from the normal high water line of the water body or the upland edge of a wetland.
- 2) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- 3) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. A "well-distributed stand of trees" adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

<u>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</u>	<u>Points</u>
2 to < 4 in.	1
4 to < 8 in.	2
8 to < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum score of 16 per 25-foot by 50-foot rectangular area.

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

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

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

The following shall govern in applying this point system:

- a) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- b) Each successive plot must be adjacent to, but not overlap a previous plot;
- c) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- d) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- e) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this Section "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half ($4\frac{1}{2}$) feet above ground level for each 25-foot by 50-foot rectangle area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, or 12.5 inches in circumference, measured at $4\frac{1}{2}$ feet above ground level may be removed in any ten (10) year period.

Vegetation less than four (4) inches in diameter at four and one half ($4\frac{1}{2}$) feet above ground level may be pruned and thinned provided that sufficient numbers of trees and other vegetation are retained to ensure adequate regeneration of the overstory and to retard erosion.

- 4) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in paragraphs b. and b.2 above.
- 5) Pruning of tree branches on the bottom one-third ($\frac{1}{3}$) of the tree is allowed.
- 6) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 17.b. does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- c. Forty percent (40%) limitation. At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond and from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, or 12.5 inches in circumference, measured at 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including, but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, twenty five (25) percent of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development or Water-Dependent Commercial Maritime Activities Districts.

- d. Lawns and fields. Lawns and fields within one hundred (100) feet of any water body or wetland shall not receive fertilizers and pesticides.
 - e. Reverted fields. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.
18. Erosion and sedimentation control. Erosion and sedimentation control shall comply with the standards in Article 4, Section P, and the following:
- a. Soil erosion plan. All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - 1) Mulching, revegetation. Mulching and revegetation of disturbed soil.
 - 2) Runoff controls. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - 3) Stabilization structures. Permanent stabilization structures such as retaining walls or riprap.
 - b. Topography and soils. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 - c. Erosion controls. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

- d. Exposed ground area. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - 1) Mulch. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - 2) Anchoring. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - 3) Siltation measures. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - e. Protection of drainage ways. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- 19. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
 - 20. Water Quality. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
 - 21. 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 comply with the provisions of Article 5, Section D.

G. Shoreland Zoning Administration

- 1. General. The provisions of this section shall apply to the administration of Article 7, Shoreland Zoning.
- 2. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the

Shoreland Zoning

district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use; nor shall any principal or accessory structure be built, constructed, set, installed, established, expanded, substantially altered, improved or relocated without a permit. Repairs and maintenance do not require a permit. A shoreland zoning activity permit other than a building permit shall be valid for the period of one year from date of issuance. The Planning Board may extend the duration of such a permit at their discretion, not to exceed five (5) years.

Road culvert exemption. A permit is not required for the replacement of an existing road culvert as long as the replacement culvert is:

- a. Size. Not more than one (1) standard culvert size wider in diameter than the culvert being replaced;
- b. Length. Not more than twenty-five percent (25%) longer than the culvert being replaced and not longer than seventy-five (75) feet; and
- c. Erosion control. Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the watercourse.

Archaeological excavation. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

3. Application Fees. All applications shall be accompanied by an application fee made payable by check to the Town of Waldoboro.
4. Procedure for Administering Shoreland Zoning Permits. Projects requiring a Code Enforcement Officer permit shall be subject to the provisions of Article 2 Section C.5. Projects requiring Planning Board approval shall be subject to the following provisions:
 - a. Application. Every applicant for approval shall submit to the Planning Board a written application, including a scaled site plan, on a form provided by the Code Enforcement Officer.
 - b. Signed. All applications shall be signed by the owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
 - c. Dated. All applications shall be dated, and the Planning Board shall note upon each application the date and time of its receipt.
 - d. Septic system permit. If the property is not served by a public sewer, the applicant shall submit a valid septic system permit or a completed application for a septic system permit, including the site evaluation approved by the plumbing inspector,

whenever the nature of the proposed structure would require the installation of a subsurface disposal system.

- e. Procedure for administering permits. Within thirty-five (35) days of the date of receiving a written application, the Planning Board shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specific additional material is needed to make the application complete. The Planning Board shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application, or within thirty-five (35) days of the public hearing, if one is held.
 - f. Burden of proof. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
5. Review Standards. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
 - a. Safe conditions. Will maintain safe and healthful conditions;
 - b. Water pollution. Will not result in water pollution, erosion, or sedimentation to surface waters;
 - c. Wastewater. Will adequately provide for the disposal of all wastewater;
 - d. Wildlife. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - e. Shore cover. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - f. Archaeological and historic sites. Applicant shall check with the Maine Historic Preservation Commission to verify whether the site contains any identified prehistoric or archaeological site;
 - g. Fishing. Will not adversely affect existing commercial fishing or maritime activities in a Water-dependent Commercial Maritime Activities District;
 - h. Floodplains. Will avoid problems associated with floodplain development and use; and
 - i. Land use standards. Is in conformance with the provisions of Article 7 Section F.
6. Denial or approval. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate this Ordinance or any regulation or any State law which the municipality is responsible for enforcing.
7. Conditions. Permits granted under this section may be made subject to reasonable conditions to ensure conformity with the purpose and provisions of this Article.
8. Special Exceptions. In addition to the criteria specified in Section G.5. Review Standards, the Planning Board may approve a permit for a single-family residential

structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- a. No other location. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
 - b. Undeveloped lot. The lot on which the structure is proposed is undeveloped and was established and recorded in the Lincoln County Registry of Deeds before the adoption of the Resource Protection District.
 - c. Location of improvements. The proposed locations of all buildings, sewage disposal systems and other improvements are:
 - 1) Slopes. Located on natural ground slopes of less than twenty percent (20%); and
 - 2) Floodplain. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least two (2) feet above the 100-year floodplain elevation; and the development is otherwise in compliance with this Ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one-half the width of the 100-year floodplain.
 - d. Square footage. The ground floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
 - e. Setback. All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than one hundred feet (100), horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate and high-value wetlands.
9. Proof of Compliance. After completion of the permitted construction, or land use change, the Code Enforcement Officer of the Town shall inspect the premises and if the same conforms to the original permit, issue to the permit holder a certificate of compliance, upon receipt of which said holder may enter upon the intended use of the premises.
 10. Installation of Public Utility Service. No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this Article or any previous Article, has been issued by the Code Enforcement Officer or other written arrangements have been made between the municipal officials and the utility.

ARTICLE 8. FLOODPLAIN MANAGEMENT

A. Purpose and Establishment

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

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

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

The Town of Waldoboro has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to 30-A M.R.S.A., § 3001-3007, 4352 and 4401-4407. This Ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

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

The areas of special flood hazard, Zones A and A1-30, have been identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Waldoboro, Maine, Lincoln County," dated October 3, 1984 with accompanying "Flood Insurance Rate Map" dated April 3, 1985 and "Flood Boundary and Floodway Map" dated April 3, 1985, which are hereby adopted by reference and declared to be a part of this Ordinance.

B. Permit Required

Before any construction or other development (as defined in Article 16), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section A, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer in accordance with the application requirements of Section D. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Waldoboro, Maine.

C. Development Standards

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

1. All development. All development shall:

Floodplain Management

- a. Design. Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Materials. Use construction materials that are resistant to flood damage;
 - c. Flood damage. Use construction methods and practices that will minimize flood damage; and,
 - d. Services. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
2. Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
3. Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
4. On site waste disposal systems. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
5. Watercourse carrying capacity. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
6. Residential. New construction or substantial improvement of any residential structure located within:
 - a. Zones A1-30. Zones A1-30 shall have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation.
 - b. Zone A. Zone A shall have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation utilizing information obtained pursuant to Article 8 Section D.2.h.1.b.; Article 8 Section D.4.b.; or Article 8 Section D.6.d. (see also Article 7 Shoreland Zoning Section F.2.c. Flood Elevation).
7. Non-residential. New construction or substantial improvement of any non-residential structure located within:
 - a. Zones A1-30. Zones A1-30 shall have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - 1) Flood proofed. Be flood proofed to at least two (2) feet above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - 2) Structural components. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

- 3) Certified. Be certified by a registered professional engineer or architect that the flood proofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section D.2.k. and shall include a record of the elevation above mean sea level to which the structure is flood proofed.
 - b. Elevation. Zone A shall have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation utilizing information obtained pursuant to Section D.2.h 1) b); Section D.4.b; or Section D.6.d. or
 - 1) Flood proofing. Together with attendant utility and sanitary facilities meet the flood proofing standards of Section C.7.a., above.
8. Manufactured homes. New or substantially improved manufactured homes located within:
 - a. Zone A1-30. Zones A1-30 shall:
 - 1) Elevation. Be elevated such that the lowest floor (including basement) of the manufactured home is at least two (2) feet above the base flood elevation;
 - 2) Permanent foundation. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - 3) Anchored. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - a) Over-the-top ties. Over-the-top ties anchored to the ground at the four (4) corners of the manufactured home, plus two (2) additional ties per side at intermediate points (manufactured homes less than fifty 50 feet long require one (1) additional tie per side); or by
 - b) Frame ties. Frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (manufactured homes less than fifty (50) feet long require four (4) additional ties per side).
 - c) Strength. All components of the anchoring system described in Section C.8.a.3.a. and b. above shall be capable of carrying a force of 4800 pounds.
 - b. Zone A shall:
 - 1) Elevation. Be elevated on a permanent foundation, as described in Section C.8.a.2) above, such that the lowest floor (including basement) of the manufactured home is at least two (2) feet above the base flood elevation utilizing information obtained pursuant to Article 8 Section D.2.h.1.b.; Article 8 Section D.4.b.; or Article 8 Section D.6.d.; and

- 2) Anchored. Meet the anchoring requirements of Article 8 Section C.8.a.3. above.
9. Recreational vehicles. Recreational vehicles located within:
 - a. Zones A1-30 shall either:
 - 1) Time limit. Be on the site for fewer than 180 consecutive days,
 - 2) Licensed. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
 - 3) Elevation and anchoring. Be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article 8 Section C.8.a. above.
10. Accessory structures. Accessory structures, as defined in Article 16, located within Zones A1-30 and A, shall be exempt from the elevation criteria required in Article 8 Section C.6 and 7 above, if all other requirements of Section C and all the following requirements are met. Accessory structures shall:
 - a. Size. Be 500 square feet or less and have a value less than \$3000;
 - b. Interiors. Have unfinished interiors and not be used for human habitation;
 - c. Hydraulic openings. Have hydraulic openings, as specified in Section C.12.b below, in at least two (2) different walls of the accessory structure;
 - d. Floodway. Be located outside the floodway;
 - e. Flow resistance. When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
 - f. Electrical. Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
11. Floodways
 - a. Zones A1-30 floodway encroachments. In Zones A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Boundary and Floodway Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - b. Non-floodway encroachments. In Zones A1-30 and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction,

substantial improvement, and other development shall not be permitted in the floodway as determined in Article 8 Section C.11.c. below unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- 1) Water elevation. Will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community; and,
 - 2) Technical criteria. Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
 - c. Non-designated floodway. In Zones A1-30 and riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
12. Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones A1-30 and A that meets the development standards of Article 8 Section C, including the elevation requirements of Article 8 Section C.6., 7. and 8. above and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
 - a. Not basements. Enclosed areas are not "basements" as defined in Article 16;
 - b. Design. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - 1) Engineered, certified. Be engineered and certified by a registered professional engineer or architect; or,
 - 2) Criteria. Meet or exceed the following minimum criteria:
 - a) Two (2) openings. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of the enclosed area;
 - b) Opening location. The bottom of all openings shall be below the base flood elevation and no higher than two (2) feet above the lowest grade; and,
 - c) Coverings. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 - c. Human habitation. The enclosed area shall not be used for human habitation; and,

Floodplain Management

- d. Limited use. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- 13. Bridges. New construction or substantial improvement of any bridge in Zones A1-30 and A shall be designed such that:
 - a. Elevation. When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least two (2) feet above the base flood elevation; and
 - b. Certification. A registered professional engineer shall certify that:
 - 1) Elevation requirements. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article 8 Section C.11 above; and
 - 2) Strength. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- 14. Containment walls. New construction or substantial improvement of any containment wall located within:
 - a. Zones A1-30 and A shall:
 - 1) Elevation. Have the containment wall elevated to at least two (2) feet above the base flood elevation;
 - 2) Strength. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - 3) Certified. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article 8 Section D.2.k.
- 15. Wharves, piers and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30 and A, in and over water and seaward of the mean high tide if the following requirements are met:
 - a. Regulations. Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 - b. Professional design or review. For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

D. Floodplain Management Administration

- 1. Permit Required. Before any construction or other development (as defined in Article 16), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article 8 Section A, a Flood Hazard Development Permit shall be

obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to this Ordinance.

2. Application for Permit. The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- a. Applicant, owner, contractor. The name, address and phone number of the applicant, owner, and contractor;
- b. Map. An address and a map indicating the location of the construction site;
- c. Site plan. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- d. Intended use. A statement of the intended use of the structure and/or development;
- e. Cost. A statement of the cost of the development including all materials and labor;
- f. Sewage system. A statement as to the type of sewage system proposed;
- g. Dimensions. Specification of dimensions of the proposed structure and/or development;

[Items h - k.2) apply only to new construction and substantial improvements.]

- h. Elevation. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
 - 1) Base flood. Base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a) Zones A1-30. In Zones A1-30, from data contained in the "Flood Insurance Study - Town of Waldoboro, Maine," as described in Article 8 Section A; or,
 - b) Zone A. In Zone A:
 - i) Technical sources. From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article 8 Section C.11., and Article 8 Section D.6.d.;
 - ii) Contour extrapolation. From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

- iii) Site elevation. To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - iv) Grades. Highest and lowest grades at the site adjacent to the walls of the proposed building;
 - v) Lowest floor. Lowest floor, including basement; and whether or not such structures contain a basement; and,
 - vi) Flood proofing. Level, in the case of non-residential structures only, to which the structure will be flood proofed;
 - i. Reference point. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article 8 Section C.6.;
 - j. Elevation certification. A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
 - k. Other certifications. The following certifications as required in Article 8 Section C.7.a.3. by a registered professional engineer or architect:
 - 1) Flood proofing. A flood proofing certificate (FEMA Form 81-65, 08/99, as amended), to verify that the flood proofing methods for any non-residential structures will meet the flood proofing criteria of Article 8 Section D.2.h.1) b) vi); Article 8 Section C.7.; and other applicable standards in Article 8 Section C.;
 - 2) Hydraulic openings. A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article 8 Section C.12.b.1.;
 - 3) Bridges. A certified statement that bridges will meet the standards of Article 8 Section C.13.;
 - 4) Containment walls. A certified statement that containment walls will meet the standards of Article 8 Section C.14.
 - l. Water course. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
 - m. Construction plans. A statement of construction plans describing in detail how each applicable development standard in Article 8 Section C. will be met.
3. Application Fee and Expert's Fee. A non-refundable application fee made payable by check to the Town of Waldoboro shall be paid and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be

paid in full by the applicant within ten (10) days after the Town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the Ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

4. Review Standards for Flood Hazard Development Permit Applications. The Code Enforcement Officer shall:
 - a. Review applications. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article 8 Section C. have been or will be met;
 - b. Utilize information. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1) Base flood data. The base flood data contained in the "Flood Insurance Study - Town of Waldoboro, Maine," as described in Article 8 Section A.;
 - 2) Other technical sources. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article 8 Section D.2.h.1. b.; Section C.11.; and Section D.6.d. in order to administer Article 8 Section C.; and,
 - 3) Submit data. When the community establishes a base flood elevation in a Zone A by methods outlined in Article 8 Section D.2.h.1. b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
 - c. Interpretations. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article 8 Section A.;
 - d. Determine necessary permits. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
 - e. Notifications. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
 - f. Approve permits. If the application satisfies the requirements of this Article, approve the issuance of one (1) of the following Flood Hazard Development Permits based on the type of development:
 - 1) Elevated structures. A two (2) part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure

to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article 8 Sections C.6, C.7. or C. 8. Following review of the elevation certificate data, which shall take place within seventy-two (72) hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

- 2) Flood proofing of non-residential structures. A Flood Hazard Development Permit for flood proofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of Article 8 Section C.7.a.1., 2. and 3. The application for this permit shall include a flood proofing certificate signed by a registered professional engineer or architect; or,
 - 3) Minor developments. A Flood Hazard Development Permit for minor development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty percent (50%) of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article 8 Section C.10., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- g. Records. Maintain, as a permanent record, copies of all Flood Hazard Development Permit applications, corresponding permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article 11 of this Ordinance, and copies of elevation certificates, flood proofing certificates, certificates of compliance and certifications of design standards required under the provisions of Article 8 Sections D.2., and D.5. below, and Section C.
5. Certificate of Compliance. No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the Code Enforcement Officer subject to the following provisions:
- a. Elevation certificate. For new construction or substantial improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with Article 8 Sections C.6., C.7., or C.8.
 - b. Notification. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this Ordinance.

- c. Code Enforcement Officer to act. Within ten (10) working days, the Code Enforcement Officer shall:
 - 1) Review. Review the elevation certificate and the applicant's written notification; and,
 - 2) Issue certificate. Upon determination that the development conforms to the provisions of this Ordinance, shall issue a certificate of compliance.
- 6. Review of Subdivision and Development Proposals. The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or these Ordinances or regulations and all projects on five (5) or more disturbed acres, or in the case of manufactured home parks divided into two (2) or more lots, assure that:
 - a. Minimize flood damage. All such proposals are consistent with the need to minimize flood damage.
 - b. Utilities. All public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damages.
 - c. Drainage. Adequate drainage is provided so as to reduce exposure to flood hazards.
 - d. Flood data. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
 - e. Special flood hazard area. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area, are to be constructed in accordance with Article 8 Section C. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

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ARTICLE 9 HAZARDOUS MATERIALS AND WASTE

A. Purpose

The regulations set forth in this Ordinance are adopted to:

1. Water protection. Provide for the protection of the groundwater and surface water quality through the control of hazardous materials and waste handling, storage or disposal;
2. Air quality. Provide for the air quality through proper control of air emissions;
3. Health and safety. Protect the health and safety and welfare of the citizens of the Town of Waldoboro.

B. Administration

The Planning Board of the Town of Waldoboro shall administer this Ordinance in accordance with the requirement of Section E of this Article.

C. Applicability

1. New construction. This ordinance shall apply to all non-residential development proposals for new construction of hazardous waste and material storage, handling, processing and/or disposal facilities and shall apply to any expansion of existing facilities. Industrial users and producers of hazardous materials or waste must at all times adhere to all federal and State storage and reporting requirements.
2. Existing facilities. Existing facilities, including commercial or industrial operations which store, handle, process or dispose of hazardous materials and/or waste shall comply with renewal permit criteria in Section E.
3. Exemptions
 - a. Agriculture. The storage and handling of products used for agricultural purposes on working farms shall be exempt when the amount does not exceed 200 kg. in any one (1) calendar year. Those agricultural operations which may have in excess of this amount (200 kg) will file a Management Plan stating the amount, location and what provisions have been made in the event of a spill.
 - b. Household materials and waste. Products which are used for normal, domestic housekeeping.
 - c. Propane gas tanks under 2500 pounds.

D. Requirements and Performance Standards

1. Requirements
 - a. Monitoring wells. Monitoring wells may be required to adequately sample ground water for contamination. The location, construction standards and monitoring

program will be determined by a registered geologist. Quarterly reports shall be sent to the Town.

- b. Insurance. Applicant must have acquired insurance of two million dollars (\$2,000,000.00) per occurrence and an annual aggregate of four million dollars (\$4,000,000.00) exclusive of legal defense costs, for claims arising out of injury to persons or property from the operations of the hazardous waste facility. The deductible written into the insurance policy must not exceed five (5) percent of the incident limit of liability of the policy. Such insurance shall be in effect for a period of forty (40) years after the site is no longer in operation.
- c. Construction surety bond. Applicant must provide a surety bond to the Town of Waldoboro in an amount sufficient to cover the construction or expansion costs of the hazardous waste facility as proposed to the Planning Board. This surety bond shall be released contingent upon approval of final construction by the Planning Board.
- d. Operation surety bond. Applicant must have obtained a surety bond in the amount of \$100,000.00, guaranteeing the operation of the site in accordance with these rules and regulations, or the applicant must post a sum equal to or greater than \$100,000.00 with the Town of Waldoboro, any or all of which may be used by the Town of Waldoboro to correct failures to comply with this Ordinance.
- e. Emergency training. The applicant shall provide such special equipment (on site) and training to reasonably prepare the Town's fire department to respond to emergencies at the site.

2. Performance standards.

The following standards are to be used by the Planning Board in judging applications and shall serve as minimum requirements for approval of the plan. The plan shall be approved, unless in the judgment of the Planning Board, the applicant is not able to reasonably meet one or more of these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

- a. Buffering of development site. The lot shall be set back and landscaped in order to screen the appearance of outstanding features of the development, i.e. - exposed storage areas, truck loading and unloading areas, to provide an audio/visual buffer to minimize their adverse impact on surrounding properties.
- b. External lighting. All external lighting shall be designed to minimize adverse impact on neighboring properties.
- c. Vehicular access. The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including sight distances, turning lanes and traffic signalization when required by existing and projected traffic flow on the municipal road systems.
- d. Parking and circulation. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas, shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangements and use of parking areas.

- e. Emergency vehicle access. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to the site and all facilities at all times.
- f. Surface water drainage and soil erosion. Adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality or public storm drainage systems. On-site absorption of runoff waters shall be utilized to minimize discharges from the site. Also, unreasonable soil erosion or reduction in capacity of the land to hold water so that a dangerous or unhealthy condition may result, shall be prevented.
- g. Water pollution. In making this determination, the Board shall at least consider:
 - 1) Land elevation. The elevation of land and its relation to flood plains, the nature of soils and subsoils and their ability to adequately support the development;
 - 2) License applicability. The applicability of any Department of Environmental Protection (D.E.P.) approved licenses;
 - 3) Slope. The slope of the land;
 - 4) Ground water. The ground water resources including aquifer recharge areas; and
 - 5) Regulations. The applicable federal, state and local laws, ordinance codes and regulations.
- h. Air pollution. In making this determination, the Board shall consult federal and state authorities to determine that applicable air quality laws and regulations can be met.
- i. Safety/fire hazards. Have sufficient facilities and equipment available for the needs of the development, including fire fighting and spill prevention and control.
- j. Sewage disposal. Will provide for adequate sewage waste disposal.
- k. Municipal services. The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, open spaces, recreational programs and facilities and other municipal services and facilities.

E. Hazardous Materials Administration

1. General

- a. Planning Board. The Planning Board of the Town of Waldoboro shall administer this Ordinance.
- b. Permit. No person shall construct, develop, establish, operate, own or maintain an industrial or commercial site which will handle, store or dispose of hazardous materials and/or waste without having first obtained a permit approved by the Planning Board issued in accordance with the requirements of this Article. Each permit shall be issued only for the site designated in the plans accompanying the

Hazardous Materials and Waste

application and shall not be transferable or assignable except with the written approval of the Planning Board.

2. Application Procedure.

- a. Procedure. Application procedure for storage of hazardous materials and waste on the premises shall contain the following information:
 - 1) List of materials. List of hazardous materials stored on the premises.
 - 2) Management plan. Management plan which will include action to be taken in case of spill and/or fire.
- b. Application. The hazardous materials application shall include as a minimum the requirements of Article 6 Section C., Site Plan Submission Requirements.
- c. Application Procedures. Applications shall be subject to the provisions of Article 6 Section D., Review Procedures.

3. General Provisions.

- a. Waiver. The Planning Board may modify or waive any of the above application requirements as provided in Article 6 Section B.4.
- b. Permit expiration. A permit granted under this Ordinance shall expire unless a substantial start is commenced within 180 days from the date the permit is granted and completed within two (2) years. Renewal of a permit shall be treated as a new application and shall be subject to all provisions of this Ordinance.

ARTICLE 10. NON-CONFORMING USES

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall generally be allowed to continue, subject to the requirements set forth herein. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming. In a situation of abutting non-conforming properties, one may become more non-conforming provided the second lot non-conformity is lessened.

B. General Provisions

1. Continuation: The lawful use of any building, structure or land that is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the provisions of this Ordinance.
2. Transfer of Ownership: Ownership of lots, structures and uses that 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 use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
3. Repair and maintenance. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, State, or local building and safety codes may require.

C. Non-conforming Structures

1. Non-conforming Structure Defined: A non-conforming structure is any structure that does not meet one or more of the dimensional requirements of this Ordinance.
2. Continuation: A non-conforming structure that is lawful at the effective date of the adoption or subsequent amendment of this Ordinance may continue to be occupied subject to the provisions of this section. A structure that is made non-conforming by an action of eminent domain of a public entity may continue to be occupied subject to the provisions of this section.
3. Expansion
 - a. Non-shoreland area: A non-conforming structure may be repaired, maintained, improved or replaced, but shall not be expanded, enlarged or increased unless such expansion does not make the structure more non-conforming regarding the dimensional requirements of this Ordinance, or unless a variance from such requirements is granted by the Board of Appeals according to the criteria established in Article 11.

Non-Conforming Uses

- b. Floodplain area. New construction to, or substantial improvement of, any structure located within Zone A and A1-30 of Article 8 and Map shall have the lowest floor (including the basement) elevated to two (2) feet above the base flood elevation as certified by a registered Maine surveyor or registered professional engineer or architect.
- c. Shoreland area - fresh water. If any portion of a structure is less than the required setback from the normal high-water line of a fresh water body or upland edge of a freshwater wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by thirty percent (30%) or more, during the lifetime of the structure.
- d. Shoreland areas - salt water. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs 1) and 2) below.
 - 1) Non-conforming setbacks. Legally existing non-conforming principal and accessory structures that do not meet the water body or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.
 - a) Within twenty-five (25) feet of the water. Expansion of any portion of a structure within twenty-five (25) feet of the normal high-water line of a salt water body is prohibited, even if the expansion will not increase non-conformity with the water body setback requirement.
 - b) Accessory structure. Expansion of an accessory structure that is located closer to the normal high-water line of a salt water body than the principal structure is prohibited, even if the expansion will not increase non-conformity with the water body setback requirement.
 - c) Within one hundred (100) feet of salt water. For structures located less than one hundred (100) feet from the normal high-water line of a salt water body, the maximum combined total floor area for all structures is 1,000 square feet, and the maximum height of any structure is twenty (20) feet or the height of the existing structure, whichever is greater.

For the purposes of this subsection, a basement is not counted toward floor area.
 - 2) Special expansion allowance. Existing principal and accessory structures that exceed the floor area or height limits established in d. 1. c. above may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met:
 - a) Fifty (50) foot setback. The principal structure is set back at least fifty (50) feet from the normal high-water line of a salt water body.
 - b) Trees and vegetation. A well-distributed stand of trees and other vegetation extends at least fifty (50) feet in depth as measured from the normal high-water line for the entire width of the property. A

"well-distributed stand of trees and other vegetation" shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

<u>Diameter of Tree at 4 1/2 feet Above Ground Level (inches)</u>	<u>Points</u>
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

If a well-distributed stand of trees and other vegetation meeting the requirements of this subparagraph is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, submitted by the property owner, and approved by the Planning Board or its designee, to re-establish a buffer of trees, shrubs and other ground cover within fifty (50) feet of the normal high-water line.

Except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs and other woody and herbaceous vegetation within 50 feet, horizontal distance, of the normal high-water line. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch and plantings of native shrubs and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of stormwater.

- c) Mitigation plan. A written plan by a qualified professional (foresters, arborists, landscape architects, and landscape contractors), including a scaled site drawing, is approved by the Planning Board and is developed, implemented and maintained to address the following mitigation measures for the property within the shoreland zone.
 - i) Un-stabilized areas. Un-stabilized areas resulting in soil erosion must be mulched, seeded or otherwise stabilized and maintained to prevent further erosion and sedimentation to salt water bodies.
 - ii) Storm water flow. Roofs and associated drainage systems, driveways, parking areas, and other non-vegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a salt water body. Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.
- 3) Planting requirements. Any planting or re-vegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional (foresters, arborists, landscape architects, and landscape contractors), be implemented at the time of construction, and be designed to meet the rating scores contained in

subparagraph 2) b), above and the ground cover requirements of paragraph 2) b, above, when the vegetation matures within the fifty (50) foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one (1) sapling per eighty (80) square feet of newly established buffer. Planted saplings may be no less than three (3) feet tall for coniferous species and no less than six (6) feet tall for deciduous species. The planting plan must include a mix of at least three (3) native tree species found growing in adjacent areas, with no one species making up more than fifty percent (50%) of the number of saplings planted unless otherwise approved by the Planning Board or its designee, based on adjacent stand comparison. All aspects of the implemented plan must be maintained by the applicant and future owners.

- 4) Filing and reporting requirements. Written plans pursuant to this section must be filed with the Lincoln County Registry of Deeds. A copy of all permits issued pursuant to this section must be forwarded by the Town of Waldoboro to the Commissioner of the Department of Environmental Protection within fourteen (14) days of the issuance of the permit.

- e. Foundation (fresh and salt water). Construction or enlargement of a foundation beneath the existing structure is not considered an expansion of the structure provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Article 10 Section C. 4. Relocation, 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 uphill side of the structure, it shall not be considered to be an expansion of the structure.

4. Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules ("Rules"), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees

are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- b Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- 5. Reconstruction or replacement. Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed by more than fifty percent (50%) of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided in shoreland areas that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

In shoreland areas, any non-conforming structure which is damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

In shoreland areas, in determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in paragraph 2 above, the physical condition and type of foundation present, if any.

- 6. Change of use of a non-conforming structure (shoreland areas only). The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body or wetland or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, commercial fishing and maritime activities, and other functionally water-dependent uses.

- 7. Non-conforming Single-Wide Manufactured Homes: See Article 5 Section X. of this Ordinance.

D. Non-conforming Uses

- 1. Non-conforming Use Defined: A non-conforming use is any use of land, buildings, or

Non-Conforming Uses

- structures lawfully existing at the effective date of adoption or amendment of this Ordinance, which does not conform to the requirements of the district or districts in which it is located.
2. Continuance: The lawful use of any building, structure, or land, which is made non-conforming by reason of the enactment of this Ordinance or subsequent amendment to this Ordinance, may be continued although such use does not conform to the provisions of this Ordinance.
 3. Discontinuance: A non-conforming use of a building, structure or land shall be considered discontinued if, in the case of a building or structure, it remains vacant for a period of twelve (12) months, and in the case of an activity, if it ceases for a period of twelve (12) months. During the following twelve (12) month period, the building or structure may be reoccupied and the use re-established with approval by the Planning Board pursuant to Site Plan Review. Subsequent use shall conform to the regulations specified in this Ordinance for the district or districts in which the building, structure or land is located. If a non-conforming use is superseded by a permitted use, the non-conforming use shall not thereafter be resumed. Resumption of a residential use that has been discontinued for over one (1) year will be allowed, provided that the structure has been used or maintained for residential purposes during the preceding five (5) years.
 4. Change of Use: An existing non-conforming use of a building, structure or land may be changed to another non-conforming use only when the new use has no greater impact on the subject and adjacent properties and resources, including water-dependent uses in the Commercial Fisheries/Maritime Activities District, than the former use, as determined by the Planning Board. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, commercial fishing and maritime activities, and other functionally water-dependent uses.
 5. Expansion of a Non-conforming, Non-residential Use: The Planning Board may issue approval for an expansion of a non-conforming, non-residential use up to a maximum of fifteen (15) percent of the original floor area of the existing structure, or in the case of an outdoor use, fifteen (15) percent of the original land area used for the activity, according to the criteria for site plan review contained in Article 6 of this ordinance, provided that the expansion meets the dimensional requirements and other provisions of this Ordinance. The expansion of a non-conforming use shall not be for the purpose of changing that use to another non-conforming use, except as provided in paragraph 4 above.
 6. Expansions of Non-conforming, Residential Uses: Any non-conforming residential use of a building outside of the shoreland zone may be expanded upon approval from the Planning Board under the criteria for site plan review contained in Article 6 of this Ordinance, provided that said expansion is in compliance with the dimensional requirements and other provisions of this Ordinance.
 7. Shoreland Zone: Expansions of non-conforming uses within the shoreland zone are prohibited except that non-conforming residential uses may, after obtaining approval from the Planning Board, be expanded within existing residential structures or within expansions of such structures as approved by the Planning Board.

E. Non-conforming Lots of Record

1. Non-conforming lots. A non-conforming lot of record as of the effective date of this

Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.

2. Contiguous built lots. If two (2) or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above-referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous lots - vacant or partially built. If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, and if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one (1) or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.

Non-Conforming Uses

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ARTICLE 11. APPEALS

A. Board of Appeals

1. Establishment. Pursuant to 30-A, M.R.S.A. § 2691 and 30-A M.R.S.A. § 4353, the Town hereby establishes the Board of Appeals for the Town of Waldoboro.
2. Appointment
 - a. Appointment. Board of Appeals members shall be appointed by the Board of Selectmen and sworn by the Town Clerk or other person authorized to administer oaths.
 - b. Number of members. The Board of Appeals shall consist of five (5) members serving staggered terms such that one (1) member is appointed per year.
 - c. Term. The term of each member shall be five (5) years.
 - d. Vacancy. When there is a permanent vacancy, the Board of Selectmen shall within thirty (30) days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a voting resident of the town, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least seventy-five percent (75%) of all meetings during the preceding twelve (12) month period. When a vacancy occurs, the chairman of the Board of Appeals shall immediately so advise the Board of Selectmen in writing. The Board of Appeals may recommend to the Board of Selectmen that the attendance provisions be waived for cause, in which case no vacancy will then exist until the Board of Selectmen disapprove the recommendation. The Board of Selectmen may remove members of the Board of Appeals by vote, for cause, after notice and hearing.
 - e. Selectman. A Selectman or a Selectman's spouse may not be a member.
3. Organization and rules.
 - a. Officers. The Board of Appeals shall elect a chairperson from among its members and create and fill such other offices as it may determine. The term of all offices shall be one (1) year with eligibility for re-election.
 - b. Disqualifications. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present and voting except the member who is being challenged.
 - c. Meetings. The chairperson shall call meetings of the Board of Appeals as needed.
 - d. Quorum. No meeting of the Board of Appeals shall be held without a quorum of three (3) members.
 - e. Majority Vote. The Board of Appeals shall act by majority vote calculated on the basis of those present and voting.

- f. Reconsideration. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within forty-five (45) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

Reconsideration should be for one of the following reasons:

- 1) The record contains significant factual errors due to fraud or mistake regarding facts upon which the decision was based; or
 - 2) The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.
- g. Rules and Records. The Board of Appeals shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

4. Duties and Powers

- a. To interpret provisions of this Ordinance called into question. 30-A, M.R.S.A., § 4353 states that the Board of Appeals may interpret provisions of a Zoning Ordinance which are called into question. In practical terms, this means that an individual may appeal the denial of a permit which was based on an interpretation of a key provision of this Ordinance. In order to meet their responsibility, all Board members should be familiar with this Ordinance.

It should be emphasized that the Board of Appeals is a quasi-judicial body that establishes precedents which it should later follow. Therefore, when interpreting the Ordinance the Board of Appeals should try very hard to look at what this Ordinance does say rather than what the Board of Appeals wants it to say.

- 1) General rules of interpretation. Using common sense is an important part of the interpretive process. Where there is no evidence of a contrary meaning, ordinance language should be given its ordinary meaning.

Sometimes the full meaning of a word in this Ordinance is not clear-cut, leaving it open to more than one interpretation. In such cases, doubts about the meaning of a word can often be resolved by paying close attention to words that have been tacked on to this Ordinance for clarification in a later enactment.

Problems of interpretation caused by ambiguous key words and phrases in this Ordinance may sometimes be cleared up by asking the advice of a lawyer or by relying on definitions given by "qualified experts" often found in technical assistance publications.

- 2) Conflicts in this Ordinance. In a situation where the Ordinance contains conflicting provisions, the Board of Appeals shall resolve the conflict in accordance with Article 1, Section E. and report the internal conflict to the Planning Board for correction.
 - 3) Legislative intent. Statement of purpose, often included in a law or this

Ordinance, may give a better understanding of what was intended when the law or this Ordinance was enacted. Referring to such statements of purpose may make interpretation easier. The Board of Appeals may also rely upon the testimony of a person who helped draft the law or this Ordinance, to determine what was intended by a key word or phrase.

- b. To hear administrative appeals. The Board of Appeals has the authority to hear appeals in the administration of this Ordinance in order to determine if the Code Enforcement Officer or the Planning Board erred in granting or denying a permit. An applicant who is denied a permit may appeal. If the Board of Appeals finds that the Code Enforcement Officer or Planning Board acted in error, it should order the error to be corrected. The Board of Appeals has no authority to take the action of the Code Enforcement Officer or Planning Board for them, or force them to comply. If the Code Enforcement Officer ignores an order of the Board of Appeals, the appellant can then take court action to force compliance. See Article 11 Section B.2, Variance Appeals, below.
- c. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

- d. To grant variances. A variance is a setting aside of one or more requirements of this Ordinance, and is equivalent to permission not to comply with one or more of the provisions.

Before granting a variance, the Board of Appeals should be very careful to determine that this Ordinance gives them the authority to grant the requested variance and that all variance-granting requirements of Article 11 Section C. are met.

When granting a variance, the Board of Appeals may attach conditions provided this Ordinance does not expressly forbid it and provided the conditions are in order to promote substantial compliance with this Ordinance. For example, the Board of Appeals may grant a variance subject to the condition that the applicant landscape sufficiently to protect abutting property owners, or, in order to facilitate traffic flow and avoid congestion, the Board of Appeals may attach conditions which determine the location of driveways, parking areas or garages.

In all cases involving dimensional requirements, the variance, if granted, should be the minimum distance necessary to relieve hardship. For example, if an applicant requests a thirty (30) foot variance from a seventy-five (75) foot setback requirement which causes undue hardship, and a fifteen (15) foot variance would relieve hardship, the Board of Appeals should grant a fifteen (15) foot variance.

B. Appeals

1. Administrative Appeals.

To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of the Ordinance. The jurisdiction shall be limited to hearing requests for interpreting the meaning of terms which are called into question, and to hearing a request to determine if the Code Enforcement Officer or Planning Board acted in accordance with the procedures of this Ordinance. The Board of Appeals shall not have the authority to substitute its judgment for that of the Code Enforcement Officer or Planning Board with respect to any of the standards of this Ordinance.

C. Variances

Prohibited Uses. Variances shall not be granted for establishment of any uses prohibited by this Ordinance.

Meet all Standards. The Board of Appeals shall not grant a variance unless it finds that the proposed structure or use would meet all of the standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought.

1. Except as provided in C.2. C.3. and C.4. C.5. below, the Board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:
 - a. Reasonable Return. The land in question can not yield a reasonable return unless a variance is granted;
 - b. Unique Circumstances. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. Essential Character. The granting of a variance will not alter the essential character of the locality; and
 - d. Action of the Applicant. The hardship is not the result of action taken by the applicant or a prior owner.

2. Variance from Dimensional Standards.

A variance from the dimensional standards of this Ordinance may be approved when strict application of this Ordinance to the petitioner and the petitioner's property would cause a "practical difficulty" and when the following conditions exist:

- a. Unique Circumstances. That the need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. Undesirable Change. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. Action Taken by the Petitioner. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. Other Feasible Alternative. No other feasible alternative to a variance is available to the petitioner;
- e. Natural Environment. The granting of a variance will not unreasonably adversely affect the natural environment.
- f. Not Within Shoreland Zone. The property is not located in whole or in part within shoreland areas as described in 38-A, M.S.R.A., § 435.

As used in this subsection, "practical difficulty" means that the strict application of this Ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the district in which the property is located and results in significant economic injury to the petitioner.

As used in this subsection, "dimensional requirements" include, but are not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

3. Variance from Setback Standards for single-family dwellings

A variance from the setback requirements only, may be granted for a single-family dwelling when strict application of this Ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- a. Unique Circumstances. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- b. Essential Character. The granting of a variance will not alter the essential character of the locality;
- c. Action Taken by Applicant. The hardship is not the result of action taken by the applicant or a prior owner;
- d. Abutting Property. The granting of the variance will not substantially reduce the value or impair the use of abutting property; and
- e. Need. That the granting of a variance is based upon demonstrated need, not

convenience, and no other feasible alternative is available.

A variance under this subsection is limited to setback requirements for a single-family dwelling that is the primary year-round residence of the applicant. The variance may not exceed twenty percent (20%) of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage, except that variances of greater than twenty percent (20%) may be approved if the petitioner has obtained the written consent of any directly affected abutting landowner, except for minimum setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to 38 MRSA §435 - 449 .

4. Variances - Floodplain Management.

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

- a. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- b. Variances shall be granted only upon:
 - 1) A showing of good and sufficient cause;
 - 2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances;
 - 3) A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and
 - 4) A determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a) That the land in question cannot yield a reasonable return unless a variance is granted;
 - b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c). That the granting of a variance will not alter the essential character of the locality; and
 - d) That the hardship is not the result of action taken by the applicant or a prior owner.

Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

- a. Other criteria of Article 8. Section C. 11. And this Section are met; and
- b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

- a. The development meets the criteria of this Section A. through D. above; and,
- b. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Any applicant who meets the criteria of this Section A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

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

5. Disability Variances

The Board of Appeals may grant a disability variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board of Appeals may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in or regularly uses the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A., § 4553 and the term "structure necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

D. Appeals Procedure

1. Making an Appeal

- a. Timely appeal. Any party aggrieved by a decision of the Code Enforcement Officer or Planning Board shall file an appeal request within thirty (30) days of the decision.
- b. Notice. Such appeal shall be made by filing with the Board of Appeals a written

notice of appeal which includes:

- 1) Relief requested. A concise written statement indicating what relief is requested and why it should be granted, and what Article of this Land Use Ordinance is involved.
 - 2) Sketch. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - 3) Signature. The application must be signed by the applicant.
 - 4) Fee. All variances and administrative appeals by an aggrieved party shall be accompanied by a fee payable to the Town of Waldoboro as established by the Waldoboro Board of Selectmen.
- c. Additional information. Additional information deemed necessary by the Board of Appeals to make a fair and equitable decision shall be supplied by the applicant upon request.
 - d. Record. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed.
 - e. Notification of town officials. The Code Enforcement Officer shall notify the Board of Appeals and the Planning Board of the request. The Code Enforcement Officer shall advertise the appeals request in the local newspaper at least seven (7) days before a hearing is scheduled, and such hearing shall be held within thirty (30) days of its request.
 - f. Notification of abutters. The Code Enforcement Officer shall notify the owners of property abutting the appellant's property and directly across the public rights-of-way from the property for which an appeal is requested, of the nature of the request and of the date, time and place of the public hearing thereon. Failure of any property owner to receive a notice of a public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.
 - g. Code Enforcement Officer involvement. The Code Enforcement Officer shall attend all hearings and may present to the Board all plans, photographs or other material s/he deems appropriate for an understanding of the appeal.
 - h. Planning Board. The Board of Appeals, where it deems appropriate, may request the Planning Board to review an appeal request and file an advisory opinion with the Board of Appeals. Any such advisory opinion shall be requested in a timely fashion in order that it may be read into the record at the Board of Appeals hearing.
 - i. Public hearing. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.
2. Decision by Board of Appeals
 - a. Quorum. A majority of the board shall constitute a quorum for the purpose of

deciding an appeal.

- b. Majority vote. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to effect any variation in the application of this Ordinance from its stated terms. The Board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
 - c. Burden of proof. The person filing the appeal shall have the burden of proof. For de novo administrative appeals, the Board of Appeals may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party has the right to represent the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross examination that is required for a full and true disclosure of the facts.
 - d. Written decision. The Board of Appeals shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - e. Findings and conclusions. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
 - f. Variance recorded. If the Board of Appeals grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the local Registry of Deeds within ninety (90) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval. The certificate of variance shall be mailed to owners of abutting property and the owner requesting the variance. The applicant shall be required to pay within ten (10) days all fees required to record the certificate of variance.
3. Appeal to Superior Court. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with 30-A M.R.S.A. § 2691(3)(F), within forty-five (45) days from the date of the vote on the original decision of the Board of Appeals. This time period may be extended by the court upon motion for good cause shown.
 4. Reconsideration. In accordance with 30-A M.R.S.A. § 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original

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decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). For de novo administrative appeals, the Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

5. Repetitive Appeals. The Board of Appeals may not entertain a second application for a variance concerning the same property after the previous application has been denied, unless conditions have substantially changed.

ARTICLE 12. WELLHEAD OVERLAY PROTECTION

A. Purpose

1. The purpose of this Ordinance is to protect the public water supply in Waldoboro from land uses that pose a threat to the quality and/or quantity of ground water being extracted from the wells that serve the public water system.
2. This ordinance applies to all land uses located or proposed within the area delineated as Wellhead Overlay Protection Districts on the Land Use Map of the Town of Waldoboro.

B. Permits Required

1. No person shall engage in any land use activity or build or expand any structure which requires a permit without first obtaining a permit for such structure or activity, or expansion thereof.
2. Land use activities and structures existing within a Wellhead Overlay Protection District as of the date of adoption of this ordinance shall be allowed to continue, without a permit, provided that such land use or structure does not cause or contribute to pollution or contamination of a groundwater source or aquifer in that Wellhead Overlay Protection District.

C. Administration

1. The Code Enforcement Officer (CEO) shall administer and enforce this ordinance. The CEO shall refer all permit applications requiring Planning Board review to the Planning Board.
2. The Planning Board shall hear and act on applications in accordance with Article 12 Section F.
3. The Waldoboro Water Department (Water Department) shall assist the town with administration and enforcement of this Ordinance. The CEO shall notify the Water Department of all pending applications, and the time, date, and place of any official local consideration of the application and provide the Water Department an opportunity to review and comment on the proposal. The Water Department or its designee may present evidence and comment before or during public hearings or meetings concerning developments or activities in the Wellhead Overlay Protection Districts. A copy of correspondence, such as a complete application, approvals and plans, shall be sent to the Water Department.

D. Non-conformance

1. It is the intent of this Ordinance that land use activities conform to the standards of this Ordinance. However, allowed land use activities or uses that existed before the effective date of this Ordinance shall be allowed to continue.
2. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve

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expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, State, or local building and safety codes may require.

3. Non-conforming Structures

- a. Expansion. A non-conforming structure may not be expanded unless the expansion conforms to all the regulations of the Wellhead Overlay Protection District in which it is located.
- b. Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirement to the greatest practicable extent as determined by the Planning Board, and provided that 1) the applicant demonstrates that the present subsurface wastewater disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system will be installed in compliance with the law and said Rules. In no case may a structure be relocated in a manner that causes the structure to be more non-conforming. In determining whether the relocation meets the setback to the greatest practicable extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems.
- c. Reconstruction, Replacement. Any non-conforming structure that is removed, damaged or destroyed may be reconstructed or replaced provided that a permit is obtained within one year of the date of damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the standards established in Article 10 of this Ordinance.

4. Non-conforming Use

- a. Expansions. Expansion of any non-conforming use is prohibited.
- b. Discontinuance. A non-conforming use that is discontinued for a period exceeding one (1) year, or that is changed to a conforming use, shall not be allowed to recur.

E. Permit Application

1. An applicant for a permit that requires Planning Board approval shall submit an application in writing to the Planning Board in conformance with the submission requirements of Article 12 Section M. All applications shall be dated and signed by the owner(s) or lessee(s) of the property or another person with a letter of authorization from the owner(s) or lessee(s). Such signature(s) shall certify that the information in the application is complete and correct.

F. Planning Board Review

1. The Planning Board review procedures shall conform to the requirements of Article 6 Section D.2.

2. The Planning Board may, as a condition of its approval, require the applicant to (1) grant the municipality or the Water Department permission to install and maintain groundwater monitoring wells on the applicant's property; or (2) install monitoring wells and implement a groundwater testing and monitoring program approved by the Planning Board, at the applicant's expense.
3. The application shall be accompanied by an application fee as specified by the Board of Selectmen after public hearing and notice.
4. The Planning Board may require an attorney or consultant to review one or more aspects of an application for compliance or noncompliance with this Ordinance and to advise the Planning Board. The attorney or consultant shall first estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost, which the Town shall place in an escrow account. The Town shall pay the attorney or consultant from the escrow account and reimburse the applicant if funds remain after payment.
5. The Planning Board may require the applicant to undertake any study that it deems reasonable and necessary to determine whether a proposed activity meets the requirements of this Ordinance. The costs of such studies shall be borne by the applicant.

G. Performance Guarantees

1. The Planning Board may require the applicant to provide performance guarantees for an amount adequate to cover the total construction costs of all required improvements. Performance guarantees may be made by certified check, payable to the Town, or a savings account naming the Town as owner, for the establishment of an escrow account; by an irrevocable letter of credit from a financial institution establishing funding for the construction of the project, from which letter the Town may draw if construction is inadequate; or by a performance bond, payable to the Town, issued by a surety company and acceptable to the Town. The form, time periods, conditions, and amount of performance guarantees shall be determined by the Planning Board.

H. Expiration of Permit

1. Following the issuance of a permit, if construction or use does not commence within one (1) year of the date of the permit, the permit shall lapse and become void. However, the permit may be renewed within six (6) months of the date of expiration, upon application to the CEO and the applicant demonstrates that there are no substantial changes in the proposed structure or use and there are no applicable amendments to the Ordinance.

I. Enforcement and Appeals

1. This Ordinance shall be enforced pursuant to the provisions of Article 2 Section D.
2. Any party aggrieved by a decision or order of the CEO or Planning Board under this Ordinance may appeal pursuant to the provisions of Article 11. For the purposes of this Article, the term "party" shall be limited to:
 - a. A permit applicant whose application is denied or granted with conditions.
 - b. A permit holder whose permit is suspended or revoked by the CEO or Planning Board.
 - c. A person owning property within a Wellhead Overlay Protection District who is adversely affected by a decision or order of the Code Enforcement Officer or

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Planning Board with respect to any property located in the same Wellhead Overlay Protection District.

- d. A person whose use of groundwater as a domestic water supply is adversely affected by a decision or order of the Code Enforcement Officer or Planning Board under this Ordinance.
- e. The Town of Waldoboro, through its municipal officers.
- f. The Water Department.

J. Establishment of Districts

- 1. The Wellhead Overlay Protection District consists of two zones as shown on the Waldoboro Land Use Map. They are defined as follows:
 - a. Zone 1 Immediate Recharge Area – A 1,000-foot wide zone along the major fracture zone providing water to the Water Department's bedrock production well.
 - b. Zone 2 Primary Recharge Area – A 2,500-foot radius circle centered on the Water Department's bedrock production well.

K. Land Use Table

All land uses in the underlying districts which involve or include any of the below listed use activities are subject to the provisions of this Article.

USE		ZONE 1	ZONE 2
A.	Non-agricultural use, storage and handling of bulk chemicals such as, but not limited to, the following uses and activities: dry cleaner, automobile repair/body shop, storage of petroleum products >500 gallons, fertilizer dealer, boatyard / boat builder, developing of photographic film	PB	PB
B.	Agricultural use, storage and handling of bulk materials including, but not limited to, pesticides, herbicides, petroleum-based fertilizer, manure, and sewage sludge	PB	PB
C.	Storage, handling and processing of solid waste <ul style="list-style-type: none">1. Transfer station/landfill2. Wood waste/agricultural cull piles	N PB	N PB
D.	Vehicular storage, use <ul style="list-style-type: none">1. Commercial overnight storage or parking; maintenance and refueling of vehicles and equipment¹2. Retail or wholesale vehicle sales3. Storage of fuels in gravel pits or mining area4. Washing of commercial vehicles	PB PB PB PB	PB PB PB PB
E.	Outside storage of bulk leachable material including, but not limited to, concrete, asphalt, coal and salt	PB	PB
F.	Mining <ul style="list-style-type: none">1. Sand and Gravel Mining2. Rock3. Metallic ore	N N N	PB PB N
G.	Subsurface waste disposal <ul style="list-style-type: none">1. New subsurface wastewater disposal systems > 1,000 gallons per day2. Replacement or expansion of subsurface wastewater disposal systems3. Discharge of commercial or industrial wastewater or wash water to a septic system (including car wash, Laundromat, etc.)²	N PB PB	PB PB PB
H.	Storm water management <ul style="list-style-type: none">1. New impervious area2. Detention3. Retention4. Infiltration	PB PB PB PB	PB PB PB PB

USE	ZONE 1	ZONE 2
I. Commercial water production wells (except Waldoboro Water Co.)	N	PB
J. Utility corridors	PB	PB
K. Essential operations of the Water Department or other official safety or utility entity	PB	PB

Y= permitted

N= not permitted

PB= permitted subject to Planning Board review and use of Best Management Practices

¹Short-term overnight parking may be allowed in connection with other activities receiving a CEO permit, e.g., short-term overnight parking of construction vehicles on new permitted construction projects.

²Includes any discharge which could enter the ground.

NOTE: All land uses and activities may be subject to requirements of other Town ordinances and State rules and regulations.

L. Lot Dimensional Requirements

1. Minimum Lot Size per Dwelling Unit

- a. The minimum lot size shall be that required in the underlying land use district as indicated in Article 3 Section H., Schedule of Dimensional Requirements.

2. Maximum Percent Impervious Surface

- a. For portions of lots within the Wellhead Overlay Protection District, the maximum percentage of the lot that can be covered by impermeable surfaces including parking areas, shall be limited as follows:

	Zone 1	Zone 2
Maximum impervious area	30%	50%

- b. Notwithstanding other provisions of the Ordinance, lot coverage that exists as of the date of adoption of this Ordinance that equals or exceeds the applicable percentage limitation may be continued and may be expanded with Planning Board approval. Expansions of lot coverage shall be limited to no more than ten percent (10%) of the portion of the lot located in the Wellhead Overlay Protection District. However, the Planning Board shall not authorize expansion of impermeable surfaces for existing uses if the total coverage of all lot areas located in the Wellhead Overlay Protection District is greater than fifty percent (50%) in Zone 1 or greater than sixty-five percent (65%) in Zone 2.

M. Application Requirements

The Planning Board may modify or waive any of the following submission requirements if it determines that, because of the size or nature of the project or circumstances of the site such requirement(s) would not be applicable or would be an unnecessary burden upon the applicant and would not affect or conflict with the purposes of this Ordinance.

1. All applications shall contain the following information.

(a) Written information:

- 1) Name of development; municipality; tax map and lot numbers.
- 2) Owner and applicant's names and addresses; name and addresses of person who prepared the application and/or plan.
- 3) Name and address to which correspondence should be sent.

- 4) If applicant is a corporation, state whether the corporation is licensed to do business in Maine and attach a copy of Secretary of State's Registration.
- 5) Copy of recorded deed for property; verification of ownership or legal interest.
- 6) Interest the applicant has in any property abutting the parcel to be developed.
- 7) State whether the development covers the entire or contiguous holdings of applicant.
- 8) On-site sewage disposal report from licensed site evaluator or information from Waldoboro Utility District indicating capacity.
- 9) Special reports:
 - a) Necessary State and/or federal permits and date of application and approval (please list).
 - b) List of construction items, cost estimates.
 - c) Construction schedules.
 - d) Proposed method of performance guarantee.
 - e) Restrictions, conditions, covenants and easements.
- (b) Plan information:
 - 1) Existing and proposed streets.
 - 2) Outline of development and remaining portion of property; written and graphic scale; date; north point.
 - 3) Perimeter survey (bearings and distances; surveyor's seal; number of acres; existing and proposed monuments; names of abutters).
 - 4) Lot lines, numbers and sizes; building setback lines.
 - 5) Existing water bodies, watercourses, wetlands, and other significant natural features.
 - 6) Public and private rights-of-way and easements.
 - 7) Land use district boundaries.
 - 8) Location of test pits keyed to site evaluator's or soil scientist's report.
 - 9) Base flood elevation, if applicable.
 - 10) Written request for waivers or variances.

- 11) Contours of 5 feet or other interval; refer to USGS bench mark elevation if within 500 feet.
- 12) Location and design of culverts, drains and other storm water control structures, existing and proposed.
- 13) Location and design of proposed sewers and water lines.
- 14) Typical engineering plan, profiles, and cross-sections.
- 15) Medium intensity or high intensity soils maps.
- 16) Location of parking, open space, conservation and/or recreation areas.
- 17) Landscaping plan and details.
- 18) Surface drainage plan.
- 19) Soil erosion and sedimentation control features.
- 20) Locations, dimensions and profiles of underground utilities.
- 21) Profile and typical cross-sections of streets and other public works.
- 22) Location/identification of buffers, lots or areas to be restricted or dedicated for common or public use.

2. Additional Application Requirements for Planning Board Review for Certain Activities within the Wellhead Overlay Protection District

More than one of the categories listed below may apply to a particular use. Applicants should request assistance from the Planning Board should there be questions as to which categories apply.

- a. Non-agricultural chemical use, storage and handling, (including petroleum products).
The application shall include all of the following information that is applicable:
 - 1) Type and volume of chemical compounds handled and/or stored.
 - 2) Site plan showing all storage, handling and use areas for raw materials and wastes.
 - 3) For outside areas, details to contain spills including:
 - a) Drainage and contour information to prevent the flow of runoff from entering the storage area and keep leaks or spills from flowing off site;
 - b) Provisions to collect chemicals should they enter the drainage system;
 - c) Provisions to segregate underground systems to ensure that there are no cross connections;
 - d) Provisions to prevent accidental containment breach by collisions;

- e) Statement of emergency measures that can be implemented for surface drainage systems.
- 4) For inside areas, details to contain spill including the:
 - a) Design of dikes around rooms;
 - b) The location of floor drains and floor drains outlets;
 - c) The location of separators, holding tanks and/or drain outlets;
 - d) The specific location and design of underground storage structures;
 - e) The location and design of piping systems for wash discharge showing that wastes are discharged to appropriate sewers or treatment systems.
- 5) A spill prevention and control and countermeasure (SPCC) plan detailing:
 - a) Materials and equipment to be available;
 - b) A training plan and schedule;
 - c) A list of contacts (Environmental Protection Agency (EPA) / Department of Environmental Protection (DEP) / local fire officials) with phone numbers;
 - d) An inspection schedule.
- 6) A report by an industrial engineer or other competent professional detailing:
 - a) Steps that have been taken to reduce the use of hazardous material;
 - b) Actions that have been taken to control the amount of wastes generated;
 - c) Any reports to provide information on the design theory or methodology for the above features.
- b. Agricultural chemical use, storage and handling
 - 1) Type and volume of chemical compounds handled and/or stored.
 - 2) Intended use.
 - 3) An Integrated Pest Management Plan.
 - 4) An on-site soils evaluation to assess nutrient holding capacity and leachability of the soils.
 - 5) Plans for control of surface water run-off and erosion in areas where chemicals will be applied.

- 6) Detailed report on type of chemical applied and rate of application.
- 7) Site plan showing all storage, handling and use areas for raw materials and wastes.
- 8) For outside storage, details to contain spills including:
 - a) Drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site;
 - b) Provisions to collect chemicals should they enter the drainage system;
 - c) Provisions to segregate underground systems to ensure that there are no cross connections;
 - d) Provisions to prevent accidental containment breach by collisions;
 - e) Statement of emergency measures that can be implemented for surface drainage systems.
- 9) For inside storage, details to contain spill including the:
 - a) Design of dikes around rooms;
 - b) The location of floor drains and floor drains outlets;
 - c) The location of separators, holding tanks and/or drain outlets;
 - d) The specific location and design of underground storage structures;
 - e) The location and design of piping systems for wash discharge showing that wastes are discharged to appropriate sewers or treatment systems.
- 10) A spill prevention and control and countermeasure (SPCC) plan detailing:
 - a) Materials and equipment to be available;
 - b) A training plan and schedule;
 - c) A list of contacts (EPA/DEP/local fire officials) with phone numbers;
 - d) An inspection schedule.
- 11) A report by an industrial engineer or other competent professional detailing:
 - a) Steps which have been taken to reduce the use of hazardous material;
 - b) Actions which have been taken to control the amount of wastes generated;

- c) Any reports to provide information on the design theory or methodology for the above features.
- c. Vehicular use and storage
 - 1) A site plan, drawn to scale, showing locations and designs of secondary containment for fuel and storage and refueling pads.
- d. Sand and gravel mining – (borrow pits)
 - 1) A location map and site plan, drawn to scale, showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, erosion and sedimentation control, all applicable private drinking water supplies or public drinking water sources and all existing or proposed solid waste disposal areas.
 - 2) A detailed report by a licensed hydrogeologist attesting to the depth of the seasonal water table, and plan showing benchmarked elevations for depth of excavation.
- e. Subsurface waste disposal
 - 1) Subsurface wastewater disposal
 - a) Soil evaluator's report and septic system design.
 - b) For sites/uses producing > 1,000 gallons of sewage per day, a hydrogeologic analysis of nitrate concentrations at the property line.
 - 2) Sewage disposal
 - a) Evaluation of public/private sewer system capacity and integrity of sewer lines serving the development by a Registered Engineer or the sewer system superintendent.
 - 3) Subsurface waste disposal
 - a) Provisions and designs for all floor drains, grease traps, and holding tanks.
- f. Stormwater management
 - 1) Engineering calculations and plans which provide:
 - a) Design of dry wells, storage, retention or detention facilities and other surface water impoundments;
 - b) Stormwater system outlets;
 - c) Delineation of post development drainage areas;
 - d) Plans for ice control, use of road salt, and snow removal.
- g. Commercial water production wells

- 1) Location and construction specifications.
 - 2) A report from a licensed hydrogeologist on the safe yield and impact upon adjacent public water supply wells.
- h. Utility corridors
- 1) Type and volume of chemical compounds handled and/or stored.
 - 2) Site plan showing all storage, handling and use areas for raw materials and wastes.
 - 3) For outside areas, details to contain spills including:
 - a) Drainage and contour information to prevent the flow of runoff from entering the storage area and keep leaks or spills from flowing off site;
 - b) Provisions to collect chemicals should they enter the drainage system;
 - c) Provisions to segregate underground systems to ensure that there are no cross connections;
 - d) Provisions to prevent accidental containment breach by collisions;
 - e) Statement of emergency measures that can be implemented for surface drainage systems.
 - 4) For inside areas, details to contain spill including the:
 - a) Design of dikes around rooms;
 - b) The location of floor drains and floor drains outlets;
 - c) The location of separators, holding tanks and/or drain outlets;
 - d) The specific location and design of underground storage structures;
 - e) The location and design of piping systems for wash discharge showing that wastes are discharged to appropriate sewers or treatment systems.
 - 5) A spill prevention and control and countermeasure (SPCC) plan detailing:
 - a) Materials and equipment to be available;
 - b) A training plan and schedule;
 - c) A list of contacts (EPA/DEP/local fire officials) with phone numbers;
 - d) An inspection schedule.
 - 6) A report by an industrial engineer or other competent professional detailing:

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- a) Steps that have been taken to reduce the use of hazardous material;
- b) Actions that have been taken to control the amount of wastes generated;
- c) Any reports to provide information on the design theory or methodology for the above features.

N. Reserved

O. Performance Standards

1. General Provisions

- a. All development located within the Wellhead Overlay Protection District shall comply with the Performance Standards established in this Section to protect the quality and quantity of the public water supply.

2. Performance Standards for non-agricultural chemical use, storage and handling (including petroleum products)

- (a) New installation of underground storage tanks is prohibited within the Wellhead Overlay Protection District.
- (b) All chemicals must be stored under cover and on an impervious surface, without floor drains.
- (c) Secondary containment of liquid chemicals equaling 110% of the stored product must be provided.
- (d) Tanks for liquid chemical storage must be equipped with automatic shut-off valves and high level alarms.
- (e) Any above-ground piping must be designed to prevent line breakage due to collision.
- (f) All containers and piping must be constructed of corrosion resistant materials.
- (g) All containers must be clearly labeled with the chemical name and date of purchase.
- (h) A Spill Prevention, Containment and Countermeasures Plan (SPCC) must be submitted to the Code Enforcement Officer, Fire Department and the Water Department.

3. Performance Standards for agricultural chemical use, storage and handling

- a. The use of chemicals or residuals shall not cause or contribute to the cumulative, calculated or actual levels of any contaminants in the groundwater at the Water Department's property line to exceed 50% of the allowable Primary Public Drinking Water Standards as defined by the Federal Safe Drinking Water Act, as amended.
- b. Only fertilizers containing predominantly slow release nitrogen and manure may be land-applied. Fertilizers shall be applied at an agronomic rate based on annual soil

test results. Permit applications must be on an annual basis. Permit applications shall include application materials and rates.

- c. Only land application of pesticides with low leachability by Maine licensed applicators is allowed. Provisions shall be made for control of surface run-off and erosion in areas where pesticides are being applied. Permit applications shall be submitted on an annual basis and shall include copies of the pesticide labels and materials safety data sheets and the proposed rate of application, in addition to a comprehensive Integrated Pesticide Management Plan certified by a groundwater hydrologist as having no unreasonable adverse effects on groundwater. Annual reports detailing the type and amount of substance used as well as date and specific location of application shall be submitted to the Code Enforcement Officer annually.
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4. Performance Standards for vehicular use and storage
 - a. When draining oils or fluids from vehicles, precautionary measures, such as portable drip pans, must be taken to contain any spills.
 - b. All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminants must have secondary containment equal to 110% of the liquid volume stored.
 - c. All commercial vehicle washing shall conform with Best Management Practices.
 - d. Refueling vehicles must be equipped with a shovel, an impermeable container with a volume of no less than 35 gallons and a tight fitting lid, and at least two absorbent pads or pillows. An absorbent pad or portable drip catch must be in place beneath the fill tube at all times during the refueling operation.
 - e. Refueling must occur on a concrete pad or other impermeable surface.
 5. Performance Standards for small borrow pits (sand and gravel mining)
 - a. No part of any extraction operation may be permitted within 150 feet of any property line or street line, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet from such line. No part of the extraction operation, including drainage and runoff control features, may be permitted within 100 feet of the normal high-water line of a water body or upland edge of a wetland. Natural vegetation must be left and maintained on the undisturbed land. Excavation may not occur below the level of the traveled surface of any street, road, or right-of-way within 150 feet of that street, road, or right-of-way, except that excavation below the traveled surface level may occur within 150 feet of a private road or right-of-way with the written permission of the owner of that road or right-of-way. A natural buffer strip at least 150 feet wide must be maintained between any excavation and a property boundary, including a street right-of-way. This distance may be reduced to not less than 10 feet with the written permission of the affected abutting property owner or owners, except that the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground. The distance between excavations owned by abutting owners may be reduced to not less than 75 feet with the abutter's written permission.
 - b. Separation must be maintained between any excavation and any public drinking water source as follows: (1) For systems serving a population of 500 persons or less, the minimum separation must be 300 feet; (2) For systems serving a

population of 501 persons up to 1,000 persons, the separation must be 500 feet; (3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and (4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet.

- c. If any standing water accumulates, the site must be fenced in a manner adequate to keep out children. Measures must be taken to prevent or stop the breeding of insects.
- d. No slopes steeper than three (3) feet horizontal to one (1) foot vertical are permitted at any extraction site unless a fence at least six (6) feet high is erected to limit access to such locations.
- e. Before commencing removal of any earth materials, the owner or operator of the extraction site must present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance must be maintained throughout the period of operation.
- f. Any topsoil and subsoil suitable for purposes of revegetation must, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles must be protected from erosion, according to the erosion prevention performance standards of this Section.
- g. Sediment must be trapped by diversions, silting basins, terraces or other measures designed by a professional engineer.
- h. The sides and bottom of cuts, fills, channels, and artificial watercourses must be constructed and stabilized to prevent erosion or failure.
- i. The hours of operation at any extraction site must be limited as the Planning Board deems advisable to operational compatibility with nearby residences.
- j. Excavation may not extend below five (5) feet above the seasonal high water table without the submission of detailed findings of the depth of the water table. The Board may, upon verified determination of the depth of the seasonal high water table, permit excavation within two (2) feet above the water table.
- k. Loaded vehicles must be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods are subject to approval by the Road Commissioner and the Planning Board. No mud, soil, sand, or other materials may be allowed to accumulate on a public road from loading or hauling vehicles.
- l. All access and/or egress roads leading to or from the extraction site to public roads must be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from such public roads.
- m. No equipment debris, junk, or other material is permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith must be removed within thirty (30) days following completion of active extraction operations.

- n. Within six (6) months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades must be established in accordance with the approved plans filed with the Planning Board. These plans must provide for the following:
 - 1) All debris, stumps, boulders, and similar materials must be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.
 - 2) The extent and type of fill must be appropriate to the use intended. The applicant must specify the type and amount of fill to be used.
 - 3) Storm drainage and watercourses must leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 - 4) At least four (4) inches of topsoil or loam must be retained or obtained to cover all disturbed areas, which must be reseeded and properly restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices," published by the Maine Department of Environmental Protection.
 - 5) No slope greater than three (3) feet horizontal to one (1) foot vertical is permitted.
 - o. Disused gravel pits within the Wellhead Overlay Protection District shall be reclaimed according to plans submitted to the Municipality.
 - p. Gravel mining activities in the Wellhead Overlay Protection District must have emergency spill response plans.
6. Performance Standards for septic systems
- a. All new and replacement subsurface wastewater disposal systems shall submit evidence of site suitability prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Waste Water Disposal Rules and for systems producing > 1,000 gallons per day of sewage, a hydrogeologic analysis or nitrate/nitrite impact study, with nitrate/nitrite concentrations limited to 5 mg/L at the property line.
7. Performance Standards for stormwater management
- a. If a project includes less than one acre of impervious area the stormwater management system must detain or retain stormwater from 24-hour storms of 2-, 10- and 25-year frequencies such that the peak flow of stormwater from the site does not exceed the peak flow of stormwater from the site prior to the undertaking of the project. The peak flow of the receiving waters may not be increased as the result of the stormwater runoff from the site for 24-hour storms of 2-, 10-, and 25-year frequencies. In municipalities with designated 100-year flood elevations, the site runoff may not adversely affect the designated 100-year flood elevations.
 - b. The Planning Board may waive this requirement if the system is designed to discharge stormwater flow into a stormwater system of a municipality or public utility, when the applicant has permission to discharge stormwater into that system, and

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demonstrates that the municipality or public utility has determined that it has adequate capacity to accommodate the change in flow.

- c. Stormwater from impervious areas greater than 20,000 square feet shall not be infiltrated, and any detention or retention structures shall be designed and constructed in such a manner that excludes groundwater interaction.

8. Performance Standards for utility corridors

- a. Pesticide use shall conform to the Standards listed in Article 12 Section O. 2. of this Ordinance, "Non-agricultural chemical use, storage and handling".

P. Control of Existing Threats

1. Inspection

- a. The Code Enforcement Officer (CEO) shall have the right to inspect any property located in a Wellhead Protection Zone, except building interiors, at reasonable hours, without landowner permission, as provided in 30-A M.R.S.A. § 4452, for the purpose of determining compliance with this Ordinance or any permit issued hereunder. The Code Enforcement Officer may be accompanied by a representative of the Water Department. In the event the landowner denies or prevents access for this purpose, the CEO shall be authorized to apply for an administrative site inspection warrant pursuant to Rule 80E, Maine Rules of Civil Procedure.

2. Monitoring

- a. Whenever the CEO finds that a use existing as of the date of adoption of this Ordinance, including but not limited to uses of the types identified in Article 12, Section K of this Ordinance, is located within the Wellhead Overlay Protection District designated by this Ordinance and poses an actual or potential threat to the safety or quality of a public groundwater supply, the Planning Board may order the property owner to grant permission for installation, or to install, groundwater monitoring wells and to conduct testing as provided in subsection (1) above. Installation of monitoring wells and testing and monitoring of groundwater in such cases shall be at the sole cost of the municipality or the Water Department, provided that if such testing indicates that the use is found to cause or contribute to a reduction of eighty percent (80%) or more of the State Primary or Secondary Drinking Water Standards at the Water Department property line, the property owner shall reimburse the municipality or Water Department for all expenses incurred for installation, testing and monitoring.

3. Enforcement

- a. If any use causes or contributes to a reduction of eighty percent (80%) or more of the State Primary or Secondary Drinking Water Standards at the Water Department property line, the Code Enforcement Officer may require the owner of the property on which the contaminating use occurs to cease activity, install or construct mechanisms, or enact appropriate procedures to reduce the contamination.

Q. Definitions

1. In addition to definitions presented in Article 16, the following additional definitions apply to

the provisions of Article 12.

Best Management Practice: Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine Departments of Agriculture, Forestry, Transportation and Development pursuant to 38 M.R.S.A. § 410-J.

Chemical Bulk Storage: Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

Construction and Commercial Equipment and Vehicle Storage: Storage of construction equipment or other commercial vehicles in excess of thirty (30) consecutive days in which the equipment is not used.

Construction/Demolition: Construction or demolition of facilities, buildings, etc. associated with the land uses or activities.

Drinking Water Standards: Primary and Secondary: Standards for drinking water as stated in the State of Maine Rules Relating to Drinking Water, Maine Department of Human Services.

Dump: (see Landfill)

Floor Drain: An opening in the floor that leads to the ground and/or is not permitted under other State, federal, or local regulations. Work sinks that lead to such drains are included.

Fuel Oil Distributor, Fuel Oil Storage: The storage of fuel for distribution or sale. Storage of fuel oil not for domestic use, i.e., not in tanks directly connected to burners.

Gas Station, Service Station: Any place of business at which gasoline, other motor fuels, motor oil or vehicle maintenance services are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

Horticulture: The cultivation of soil, producing or raising crops, including gardening, horticulture and silviculture as commercial operations. The term shall also include greenhouses, orchards, nurseries, and versions thereof, but shall not include home gardens.

Industrial Waste: Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

Inert Fill: Material placed on or into the ground as fill that will not react chemically with soil, geologic material, or groundwater.

Integrated Pest Management (IPM) Plan: Integrated Pest Management (IPM) is the coordinated use of physical, biological and cultural controls and least-toxic pest control products and techniques to prevent unacceptable levels of pest damage by the most economical means with the least possible hazard to people, property and the environment. Integrated Pest Management involves the monitoring of pest populations, establishment of injury levels, modification of habitats (to eliminate sources of food, water, harborage and entry), utilization of least-toxic controls, and keeping of records and evaluation of

performance on an ongoing basis.

Intensive Open Space Uses: Uses of open space that have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly groundwater quality and quantity. Examples of intensive open space uses include: automobile or all-terrain vehicle racetracks or ranges, etc.

Landfill: An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground.

Nursery: (see Agriculture, in Article 16)

Open Space: Land that is free of buildings and other permanent structures.

Paving: (see Construction)

Pesticide/Herbicide Bulk Storage: Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included.

Salt or Sand/Salt Piles (uncovered): Storage of any amount of salt or sand/salt mix, for any purpose, without a roof or other structure capable of preventing precipitation from reaching the salt or sand/salt.

Silviculture: The care and cultivation of forest trees; forestry.

Sludge: Residual material produced by water treatment or sewage treatment processes, industrial processes, or domestic septic tanks.

Sludge Utilization: The spreading of sludge on the ground or other use of sludge that might expose surface water or groundwater to the sludge.

Snow Dump: A location to which snow is transported and dumped by commercial, municipal, or State snowplowing operations.

Solid Waste: Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse.

SPCC Plan: Spill Prevention Control and Countermeasure Plan as described in 40CFR, Part 112 of Federal Oil Pollution Prevention Regulations.

Stormwater Drainage: A sewer or other system for conveying surface runoff due to storm events and unpolluted ground or surface water, including that collected by cellar drains, but excluding sanitary sewage and industrial waste.

Stormwater Impoundment: Any structure designed and constructed to contain stormwater runoff.

Subsurface Injection: (see Subsurface Sewage Disposal System in Article 16).

Transfer Station; Recycling Facility: Facility designed for temporary storage of discarded material intended for transfer to another location for disposal, re-use, and/or processing.

Utility Corridor: Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities, for conveying energy, communication signals, fuel, water, wastewater, etc.

Underground Storage Tank: As defined by State of Maine regulations published by the Maine Department of Environmental Protection.

Waste Disposal, Industrial/Commercial: (See Industrial Waste)

Wastewater: Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences, together with any storm, surface or groundwater as may be present.

Wastewater Treatment Plant: Any arrangement of devices and structures used for treating wastewater.

Watershed: Land lying adjacent to water courses and surface water bodies which creates the catchment or drainage area of such water courses and bodies; the watershed boundary is determined by connecting topographic high points surrounding such catchment or drainage areas.

Well, Abandoned: A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for the extraction or monitoring of groundwater, that has not been used for a period of two consecutive years.

Well, Existing or New: A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction or monitoring of groundwater.

Wellhead: The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

Wellhead Overlay Protection District: A district, consisting of two zones, delineated according to Article 12.J of this Ordinance.

Zone of Contribution: The area from which groundwater flows to a pumping well.

Wellhead Overlay Protection

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ARTICLE 16. DEFINITIONS

A. Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in this Ordinance shall have the meaning implied by their context in this Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word “person” includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The word “lot” includes the words “plot”, “parcel”, “apartment”, “condominium unit”, “store”, “leased or rented area”, as well as land.

The words “used” or “occupied,” as applied to any land or building, shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

The words “Town” or “municipality” mean the Town of Waldoboro, Maine.

The words “governing authority” mean the legislative body of the municipality, which are the voters of the town meeting at a town meeting.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers include the singular.

The words “shall” and “will” are mandatory, the word “may” is permissive.

B. Definitions

The following terms shall have the following meanings:

100-year Flood: (see Base Flood)

Abutter: One whose property abuts, is contiguous, or joins at a border or boundary, including the property across the street, road, public way or private way.

Accessory Structure or Use: A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure. Accessory structures, except those that require direct access to the water, must also meet all setback requirements. A guest house without kitchen facilities is an accessory structure. With kitchen, sleeping, bathing and sanitary facilities, it is a dwelling unit.

Active Recreation: Recreation activities which necessitate some degree of structural or mechanical components for participation in the activity.

Adjacent: Having a common border, more than a point.

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

Administrative Appeal: An appeal to the Board of Appeals from a determination made by the Code Enforcement Officer or Planning Board in enforcing this Ordinance. Such determinations may have involved an interpretation of the provisions of this Ordinance or a finding of fact.

Adult Business Establishment/Adult Entertainment: Any retail business whether conducted from a fixed or mobile location or vehicle, including, but not limited to, any bookstore, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade or theater, which:

1. Keeps for public patronage or permits or allows the operation or use of any adult amusement device containing sexually explicit material; or
2. Permits any person on the premises, including an employee, entertainer or patron, to expose that person's genitals, pubic hair, buttocks or perineum, or the areola of a female breast, to a patron or member of the general public; or
3. Exhibits or displays motion pictures or other visual representation described or advertised as being "X-rated" or "for adults only", or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such or similar phrases; or
4. Offers as a substantial portion of its stock-in-trade books, magazines, or other periodicals, video recordings, or "marital aids" and devices characterized by emphasis on sexual activities.

Affordable Housing: Housing units which meet the sales price and/or rental targets established by the Waldoboro Comprehensive Plan.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such a permit or variance.

Agriculture: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Amusement Center: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Animal Hospital: (see Veterinary Hospital or Clinic).

Animal Husbandry: The keeping of any domesticated animals other than customary household pets.

Antenna: Any system of poles, panels, rods, reflecting discs or similar devices used for the

transmission or reception of radio or electromagnetic frequency signals.

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna or tower. 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.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Aquifer: Geologic deposits or structures from which useable quantities of ground water are available for households, municipalities or industries.

Archaeological Site: A site of potential archaeological importance, including sites identified by the Maine Historic Preservation Commission.

Area of Special Flood Hazard: The land in the floodplain having a one percent (1%) or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article 8 of this Ordinance.

Auction Barn: A building or facility in which periodic or regular public sales of property to the highest bidder are held.

Authorized Agent: Anyone having written authorization to act in behalf of a property owner, signed by the property owner.

Automobile Body Shop: A business establishment engaged in rebuilding or reconditioning of motor vehicles, or body, frame or fender straightening and repair, or painting and undercoating, but not the sale of gasoline, other motor fuels, or motor oil.

Automobile Graveyard: A yard, field or other area used as a place of storage of three (3) or more unregistered or un-inspected motor vehicles or parts thereof other than temporary storage by an establishment or place of business which is engaged primarily in doing auto repair work for the purpose of making repairs to render a motor vehicle serviceable.

Automobile Sales: Automobile sales consists of any of the following activities: purchasing of vehicles for the purpose of resale; selling more than five vehicles in any 12-month period; or advertising in any form three or more vehicles for sale or displaying three or more vehicles for sale within a 30-day period.

Barber, Beauty Shop: A commercial establishment whose business is cutting and dressing hair, shaving and performing related services.

Basal Area: The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Base Flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement: Any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty percent (50%) of its volume below the existing ground level. For floodplain

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management purposes, basement means any area of the building having its floor sub grade (below ground level) on all sides.

Bed & Breakfast: A single-family, owner occupied, dwelling in which lodging or lodging and meals are offered to guests for compensation, of no more than five (5) bedrooms for lodging purposes.

Billboard: A sign, structure or surface larger than four (4) square feet which is available for advertising goods or services rendered off the premises.

Boardinghouse: Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two (2) weeks, and where a family residing in the building acts as proprietor or owner and where there are no provisions for cooking in any individual room other than the main kitchen.

Boathouse: A non-residential structure designed for the purpose of protecting or storing boats and boating equipment for non-commercial purposes.

Boat Launching Facility: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Body of Water: Shall include the following:

1. Pond or Lake - any inland impoundment, natural or manmade, which collects and stores surface water.
2. Stream or River - a free flowing drainage outlet, with a defined channel lacking terrestrial vegetation, and with flowing water for more than three (3) months during the year.
3. Tidal - any area upon which tidal action occurs.

Borrow Pit: An area which is excavated for earthen materials that are used off the premises.

Bottle Club: An establishment where no alcoholic beverages are sold, but where members, guests or customers provide their own alcoholic beverages, paying a fee or other consideration for admission or membership to the bottle club and/or for set-ups.

Breakaway Wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Brook: A channel between defined banks including the floodway and associated floodplain wetlands where the channel is created by the action of the surface water and 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.

Buffer Area: A part of a property or an entire property, which is not built upon and is specifically designed to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Building: (see Structure).

Building Height: (See Height of a Structure).

Building Supply Outlet: A place where lumber and other building construction materials are sold.

Business Sign: An attached or freestanding structure which directs attention to a business or profession conducted on the premises.

Campground: Any area or tract of land intended to accommodate two (2) or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles or other shelters.

Campsite, Individual Private: An area of land which is not associated with a campground, but which is developed for repeated camping by only one (1) group not to exceed ten (10) individuals and which involves site improvements which may include, but not be limited to, gravel pads, parking areas, fireplaces, or tent platforms.

Canopy: The more or less continuous cover formed by tree crowns in a wooded area.

Catering: A business involving the preparation of food for consumption off the premises.

CEO: (See Code Enforcement Officer).

Certificate of Compliance: For floodplain management purposes, a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance for floodplain management purposes.

Certificate of Occupancy: Document certifying that premises comply with provisions of land use and/or building ordinances.

Child Care Facility: A building or buildings in which a person or persons maintains or otherwise carries out a program, for any part of the day, providing care and protection of children. Child Care Facilities, with or without consideration for the services rendered, may be operated as a service business or within a church or community building.

Child Care Minor: A home or establishment providing day care for up to 12 children under the age of 16 years.

Church: A building or structure, or group of buildings and structures, designed and used for the conduct of religious services, excluding schools.

Channel: A natural or artificial watercourse with definite beds and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Civic Service Facility: (See Community Service Organization).

Club: Any association of persons organized for sport, recreation, social, religious, benevolent, or academic purposes, whose facilities are open to members and guests, including fraternities, sororities, and social organizations.

Cluster Development: A development designed to promote the creation of open space by a reduction of dimensional and area requirements.

Cluster Housing: A housing development designed to create open space by a reduction of dimensional and area requirements.

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Coastal High Hazard Area: The area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a Flood Insurance Rate Map as Zone VI-30, VE, or V.

Coastal Wetland: (See Wetland, Coastal).

Code Enforcement Officer: A person whose duty it is to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Collocation: The use of a wireless telecommunications facility by more than one (1) wireless telecommunications provider.

Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including, but not limited to: racquet clubs, health facilities, and amusement parks, but not including amusement centers.

Commercial Use: The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Common Open Space: Land within or related to a development, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Communication Tower: (See Wireless Telecommunications Facility).

Community Living Facility: A housing facility for eight (8) or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living facility may include a group home, foster home or intermediate care facility.

Community Service Organization: A non-profit charitable institution, not to include private clubs, the primary function of which is serving the public health or social welfare of the community.

Complete Application: An application form, including the required fee, and all information required by this Ordinance, or the submission of an application form which has been approved by a vote of the Planning Board.

Comprehensive Plan: A document or interrelated documents adopted by the Town of Waldoboro containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and strategies for implementation of the policies.

Congregate Housing: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly occupants.

Constructed: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered as part of construction.

Construction Services: Commercial activities involved in the building or construction trades,

including but not limited to earth moving, road construction, and building construction.

Convenience Store: A store of less than 2,000 square feet of floor space intended to serve the convenience of a residential neighborhood with items such as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items. A convenience store may include the sale of motor fuels. (See also Neighborhood Convenience Store).

Cottage Industry: A small scale light industrial operation consisting of less than 2,000 square feet of floor area.

DBH: (See Diameter at Breast Height).

Decorative Changes: Repainting, removing or replacing trim, railings, or other non-structural architectural details, or the addition, removal or change of location of windows and doors.

Density: The number of dwelling units per acre of land.

DEP: The Maine Department of Environmental Protection.

Development: Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities. A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Diameter at Breast Height: The diameter of a standing tree measured 4.5 feet from ground level.

Dimensional Requirements: Numerical standards relating to spatial relationships including, but not limited to, setback, lot area, shore frontage and height.

Disability: Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

District: A specified portion of the Town, delineated on the Land Use Map, upon which are imposed certain regulations in accordance with the requirements of this Ordinance.

Driveway: A vehicular access way serving two single-family dwellings or one two-family dwelling or a commercial use, which may serve up to two (2) lots plus the lot over which the access way is provided.

Dwelling: Any building, manufactured home or structure or portion thereof designed or used for residential purposes.

1. **Single-Family Dwelling:** Any building containing only one (1) dwelling unit for occupation by not more than one (1) family.
2. **Two-Family Dwelling (Duplex):** A building containing two (2) dwelling units which share a

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structural common wall. Occupancy is limited to not more than two (2) families.

3. **Multi-Family Dwelling:** A building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one (1) family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured homes and modular homes, but not recreational vehicles or motel units.

Elevated Building: A non-basement building

1. Built, in the case of a building in Zones A1-30 or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or "stilts;" and
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to two (2) feet above the magnitude of the base flood.

In the case of Zones A1-30 or A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article 8.

Elevation Certificate: An official form (FEMA Form 81-31, 08/99, as amended) that:

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

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.

Engine: A motor in which a fuel such as gasoline or diesel is burned by internal combustion.

EPA: The United States Environmental Protection Agency, a federal agency.

Essential Services: Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Excavation: Removal or recovery by any means of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Expansion of a structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of a Use: The addition of weeks or months to the operating season of a business, the addition of hours to a business day, the use of more floor area or ground area devoted to a particular use, or the provision of additional seats or seating capacity or the addition of antennas, towers, or other devices to an existing structure.

FAA: The Federal Aviation Administration, or its lawful successor.

Factory Farms: An establishment engaged in the fattening, raising, or breeding of animals typically for the commercial production of food, where the animals are fed primarily in pens, lots, or buildings (partially or wholly enclosed). Uses include but are not limited to hog farms, poultry / egg farms, and cattle feed lots.

Family: One (1) or more persons occupying a premise and living as a single housekeeping unit.

Farm, Commercial: Land qualified to be accepted in the State of Maine's Farmland current-use property taxation program. The minimum size is five acres, and the land must yield a minimum of \$2,000 in gross farm income per year, which can include the value of farm products consumed by the farm family.

Farmer's Market: A public or private structure or area in which stalls or sales areas are set aside or rented and which are intended for use by its members to sell produce and farm products.

Farm Operation, Small Scale: The keeping of animals such as poultry, fowl, goats, sheep, pigs, cows, or horses and similar animals for immediate household use and not for commercial purposes. It also includes the growing of crops primarily for household use but may include the incidental sale of produce or food products.

Farm Stand: A booth, stall, stand, or temporary structure from which produce, farm products, and other food related items are sold to the public.

FCC: The Federal Communications Commission, or its lawful successor.

Filling: Depositing or dumping any solid matter on or into the ground or water.

Financial Institution: A bank, savings and loan institution, or credit union.

Firewood Processing Facility: A place where firewood is delivered, cut and split, and from which it is sold for commercial purposes.

Flea Market: The sale of used merchandise, customarily involving tables or space leased or rented to vendors.

Floating Slab: A reinforced concrete slab which is designed to withstand pressures both from below and above.

Flood or Flooding:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.

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

Flood Elevation Study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

Flood Insurance Study: (See Flood Elevation Study).

Floodplain or Flood-Prone Area: Any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain Management: The operation of an overall program of corrective and preventive measures for floodplain management and regulation.

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

Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: (See Regulatory Floodway).

Floodway Encroachment Lines: The lines marking the limits of floodways on federal, State, and local floodplain maps.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest Management Activities: Timber cruising and other forest resource evaluation activities, pesticide or fertilizer applications, 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, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of

floodplain management. "Freeboard" tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated, for a selected size flood and floodway conditions.

Frontage, Road: The length of a lot bordering on a road measured in a straight line between the intersections of the lot lines and a road right-of-way to which the lot has legal access,.

Frost Wall: A masonry foundation wall extending below the ground surface, supported by footings located below the frost-line to protect structures from frost heaves.

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities (excluding recreational boat storage buildings), finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Garage Sale: (See Yard Sale).

Grade Beam: That part of a foundation system (usually in a building without a basement) which supports the exterior wall of the superstructure, commonly designed as a beam which bears directly on the column footings, or may be self-supporting. The grade beam is located at the ground surface and is well-drained below.

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, for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great Pond Classified GPA: GPA is the highest category with respect to water quality. All Great Ponds in Waldoboro are classified GPA as of 2007.

Ground Cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Ground Water: The water present in the saturated zone of the ground.

Guest House, Commercial: (See Inn).

Hazardous Material: A substance regulated by the U.S. Environmental Protection Agency or the Maine Department of Environmental Protection which is ignitable, corrosive, reactive and/or toxic. It includes "radioactive material" which is defined as any solid, liquid, or gas containing nuclides that spontaneously disintegrate or exhibit ionizing radiation.

Hazardous Materials Use, Storage or Disposal Permit: A certificate issued by the Waldoboro Planning Board authorizing the use, storage or disposal of hazardous materials for a specific use site by a specific person or firm and specifying such other requirements which the Planning Board finds to be necessary for the protection of the health, safety and welfare of the citizens of Waldoboro.

Hazardous Waste: A waste substance which is ignitable, corrosive, reactive and/or toxic. It includes 1) all wastes determined to be hazardous by the Resource and Recovery Act, Section 3001 and regulations promulgated pursuant to said section, including 40 CFR 261; 2) wastes determined to be hazardous by the State Board of Environmental Protection, pursuant to 38 M.R.S.A. § 1303 and 1303-A; 3) "Radioactive Waste" which is defined as any solid, liquid or gas residue, including spent fuel assemblies prior to reprocessing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiation.

Height of a Structure: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennae, and similar appurtenances which have no floor area.

Historic or Archaeological Resources: Resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

Historic District: 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.

Historic Landmark: Any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

Historic Structure: (See Historic or Archeological Resources).

Home Occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Horse Operation Commercial: Buildings, structures, and grounds used for the care, feeding, breeding, boarding, training, and raising of horses, including riding areas and the associated services related to these activities.

Hospital: A building or structure which is used for the housing and care of sick, hurt, or incapacitated human beings. It may also include accessory uses which are directly associated with the housing and care of sick, hurt, or incapacitated human beings such as kitchen facilities, solariums, dormitories, physicians' offices, etc.

Hotel: A building in which lodging or meals and lodging are offered to the general public for compensation and in which ingress and egress to and from the rooms are made primarily through an inside lobby or office. The hotel may contain such accessory services and facilities as newsstands, personal grooming facilities and restaurants.

Household Waste: Any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels).

Illuminated, Interior: Lighting provided by means other than a light shining on the object.

Increase in Non-conformity of a Structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in setback distance from a property line, roadway, water body, tributary stream or wetland, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual Private Campsite: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fireplace, or tent platform.

Industrial: The use of real estate, buildings or structures, or any portion thereof, for assembling, fabricating, finishing, manufacturing, packaging or processing operations, including the processing of raw materials, or the large scale storage of flammable or explosive materials. The following uses are not permitted: commercial tannery, explosive manufacturing, rendering, petroleum refinery, slaughterhouse, storage of hazardous, biomedical, or radioactive waste, except as permitted in Article 9, and nuclear power.

Industrial, Light: For definition, see specific performance standards for light industry in Article 5 section O Light Industry, subsection 1 Specific Performance Standards.

Inn: A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house, but not bed and breakfast, hotel or motel.

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Institutional: Devoted to some public, governmental, educational, charitable, religious, medical or similar purpose.

Junkyard: A yard, field or other area used as a place of storage, for:

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
2. Discarded, scrap and junked lumber;
3. Old or scrap copper, brass, ropes, rags, batteries, motor vehicle parts, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous material;
4. Garbage dumps, waste dumps, and private sanitary landfills; and
5. Automobile graveyards.

Kenel, Commercial: Any place, building, tract of land, abode, enclosure, or vehicle where dogs or other pets are kept, bred or trained for their owners in return for a fee.

Kiosk: A small detached building not more than 144 square feet in area used to sell goods or services including food.

Laundromat: An establishment providing washing, drying or dry cleaning machines on the premises for rental use to the general public for family laundering or dry cleaning purposes.

Level of Service: A description of operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1991 edition, published by the National Academy of Sciences, Transportation Research Board. There are six (6) levels of service ranging from Level of Service A, with free traffic flows and no delays, to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Light Manufacturing: A use engaged in the manufacture of finished products or parts, predominately from previously prepared materials, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Line of Sight: The direct view of the object from the designated scenic resource.

Livestock Operations: Agriculture operations where the principal activity is the boarding or raising or keeping of animals or fowl for commercial purposes.

Locally Established Datum: An elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lodging House: (See Inn).

Lot: A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by

ordinances, and having the required frontage upon a public street, right-of-way or private way. A substandard lot cannot be made conforming by adding a parcel of land across a public road. See Back Lot, below.

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 road rights-of-way serving more than two (2) additional lots.

Lot, Corner: A lot with at least two (2) contiguous sides abutting upon a street or right-of-way.

Lot Coverage: The percentage of the lot covered by all buildings, structures, parking areas, and outside storage and processing.

Lot, Interior: Any lot other than a corner lot or back lot.

Lot Lines: The lines bounding a lot as defined below:

1. **Front Lot Line:** On an interior lot, the line separating the lot from the street right-of-way. On a corner or through lot, the line separating the lot from either the street or right-of-way, which provides legal access to the lot.
2. **Rear Lot Line:** The lot line opposite the front lot 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 (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

Lot Width: The distance between the side boundaries of the lot measured at the front setback line.

Lowest Floor: The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements in Article 8, Section C.12 of this Ordinance.

Manufactured Home: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis, or placed on an independent chassis, to a building site. The term includes any type of building that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this definition, three types of manufactured housing are included. These three types are:

1. Those units constructed after June 15, 1976, commonly called "newer manufactured home," that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one (1) or more sections, that in the traveling mode are fourteen (14) body feet or more in width and are 750 or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit. This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the

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standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et. seq.,

2. Those units commonly called “modular homes,” that the manufacturer certifies are constructed in compliance with Title 10, Chapter 951, and rules adopted under that chapter, meaning structures, transportable in one (1) or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical system contained in the unit (not included as manufactured homes are those units commonly called park trailers, travel trailers, and other similar vehicles placed on a site more than 180 consecutive days), and
3. Those units constructed prior to June 15, 1976, meaning structures, transportable in one or more sections, which are eight (8) body feet or more in width and are thirty-two (32) body feet in length, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning, or electrical systems contained therein.

Manufactured Home Park Lot: The area of land on which an individual home is situated within a manufactured home park and which is reserved for use by the occupants of that home.

Manufactured Home Park or Subdivision: A parcel, or contiguous parcels, of land divided into two (2) or more manufactured home lots for rent or sale.

Manufacturing: (See Industrial).

Marina: A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

Market value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Masonry-Type Skirting: Concrete, concrete blocks, brick, stone or similar materials which are arranged to resemble a foundation.

Mass Gathering: The gathering of more than 100 people for an event other than a birthday party, wedding, or similar family gathering at a location not already approved for such a gathering.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

Mechanized Recreation: Recreation activities which require the use of motors or engines for the operation of equipment or participation in the activity.

Medical Marijuana: All parts of the genus Cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Medical Office: An establishment where patients are admitted for examination and treatment by one (1) or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

Methadone: A potent synthetic drug that is less addictive than morphine or heroin and is used as a substitute for those drugs in addiction treatment programs.

Methadone Clinic: A licensed facility for the counseling and treatment with methadone of persons with opiate addictions on an outpatient basis.

Mineral Exploration: Hand-sampling, test-boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral Extraction: Any operation within any twelve (12) month period which removes more than 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.

Minimum Lot Width: The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Minor Commercial Additions: Additions to commercial structures which range in size between 500 square feet and 1,500 square feet.

Minor Development: For floodplain management purposes, all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty percent (50%) of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article 8 Section C.10, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

Mixed Use: A combination of residential and nonresidential use as indicated as a permitted use on the Schedule of Uses Matrix contained in this Ordinance, exclusive of home occupations, on a single lot, but not necessarily in the same structure.

Mobile Home: (See Manufactured Home).

Motel: A building in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from the outside of the building.

Multi-Family Dwelling: (see Dwelling: Multi-Family Dwelling)

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

Native: Indigenous to the local forests.

Neighborhood Convenience Store: A store of less than 600 square feet of floor space intended to service the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items and having

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no fuel pumps. (See also Convenience Store).

Net Developable Acreage: The acreage available for development, excluding the area for streets or access except a driveway right-of-way for one (1) or two (2) additional lots and the areas which are unsuitable for development as provided for in Article 4, Section H.

Net Residential Density: The number of dwelling units per net residential acre.

New Construction: For the purpose of Article 8, structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures. See also Start of Construction.

Non-Conforming Lot: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-Conforming Condition: Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-Conforming Structure: A structure which does not meet any one (1) or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Use: Use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal High-Water Line: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation than the water level of the river or great pond during the period of normal high water are considered part of the river or great pond.

Normal High-Water Line (adjacent to tidal waters) : Setbacks are measured from the upland edge of the “coastal wetland.”

Nursing Home: Any facility which provides meals, lodging and nursing care for compensation.

Office: A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

Official Business Directional Sign: A sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 M.R.S.A. § 1901, et seq., which points the way to public accommodations and facilities or other commercial facilities.

Opioid Treatment Facility: is any treatment facility certified by federal Substance Abuse and Mental Health Services Administration (SAMHSA) in conformance with 42 Code of Federal Regulations (C.F.R), Part 8, to provide supervised assessment and MAT (Medication Assisted Treatment) for clients who are opioid addicted.

Parabolic Antenna (also known as a satellite dish antenna): An antenna which is bowl-shaped,

designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

Parking Lot: A premises used primarily for the parking or storage of vehicles.

Parking Space: An area for the parking of a vehicle, exclusive of drives or aisles.

Parks and Recreation Facilities: Non-commercially operated recreation facilities open to the general public including, but not limited to, playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including campgrounds, commercial recreation, and amusement centers as defined elsewhere in this Ordinance.

Passive Recreation: Parkland or open space devoted or intended exclusively for undeveloped and noncompetitive leisure activities. Examples of such activities are hiking, jogging, hunting, fishing, wilderness camping, bird-watching, and nature study. Passive recreation may be either commercial or noncommercial and may be open to the general public or restricted.

Performance Guarantee: (See Article 6 Section G).

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

Personal Property: Property which is owned, utilized and maintained by an individual or members of his or her household and acquired in the normal course of living in or maintaining a residence and is not attached to or affixed to the ground or a structure. It does not include merchandise which was purchased for resale or obtained on consignment.

Personal Services: A business which provides services but not goods, such as hairdressers, shoe repair, etc.

Piers, docks, wharfs, bridges, and other structures and uses, extending over or beyond the normal high-water line or within a wetland:

1. Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
2. Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Planning Board: The Planning Board of the Town of Waldoboro.

Plat: A map of a town, section or subdivision showing the location and boundaries of individual parcels of land subdivided into lots with streets, alleys, easements, etc., usually drawn to scale.

Pond: (See Body of Water).

Porch Sale: (See Yard Sale).

Principal Structure: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use: A use other than one which is wholly incidental or accessory to another use on the same premises.

Private Road: Same as Private Street. (See also Street Classification).

Professional Offices: The place of business for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors, but not including financial institutions or personal services.

Public Building, Use: Any building or land held, used or controlled exclusively for public purposes by any department or branch of government, federal, State, county or municipal, without reference to ownership of building or the real estate upon which it is situated.

Public Facility: For shoreland zoning purposes, any facility, including, but not limited to, buildings, property, recreation areas, and roads, which is owned, leased or otherwise operated, or funded by a governmental body or public entity.

Recent Flood Plain Soils - The following soil series as described and identified by the National Cooperative Soil Survey:

<u>Map Symbol</u>	<u>Soil Map Unit Name</u>
Be	Beaches
Ch	Charles silt loam
Le	Lovewell very fine sandy loam
My	Medomak silt loam
Su	Sulfihemists and sulfaquents, frequently flooded

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual low-impact recreational activities.

Recreational Vehicle: A vehicle or an attachment to a vehicle designed to be towed or self-propelled, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles and meet the following:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection, not including slide outs;
3. Designed to be self-propelled or permanently towable by a motor vehicle; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Recycling Center: A facility which handles recyclable solid materials that have been separated from the municipal waste prior to their receipt at the recycling facility, and are free from and will not produce putrescible or other solid wastes, liquid wastes, or any special or hazardous wastes. A recycling facility shall not include any facility which requires a permit for the operation of an automobile graveyard/junkyard. A recycling center may include a redemption center as an ancillary and subsidiary use.

Redemption Center: A stand-alone facility licensed by the Maine Department of Agriculture which collects beverage containers and refunds the statutory deposit pursuant to 32 M.R.S.A. § 1861. The facility shall also store the beverage containers on-site for a period of time not to exceed thirty (30) days for ultimate collection by the beverage distributor.

Registered Cultivation Facility: A location at which marijuana is cultivated pursuant to 22 M.R.S.A. §2428. The location is considered to be and must abide by, all ordinance provisions regarding a Registered Cultivation Facility whether it be is at the same location as its associated Registered Dispensary or at a different location pursuant to 22 M.R.S.A. §2428(2)(A)(3). A Registered Cultivation Facility is not considered an accessory use.

Registered Dispensary: A registered dispensary as defined by 22 M.R.S.A. §2422; “registered dispensary” or “dispensary” means a not-for-profit entity registered under section 2428 that acquires, possesses, cultivates, manufactures, delivers, or dispenses marijuana or related supplies and educational materials to registered patients and the registered primary caregivers of those patients.

Regulatory Floodway:

1. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot, and
2. When not designated on the community’s Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Replacement System: A system intended to replace: 1) an existing sanitary wastewater disposal system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

Research Lab / Facility: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but are not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residential Appearance: Siding materials such as clapboards, shingles and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles and shakes. This term shall also include masonry, brick, stucco, and wood board-and-batten.

Residential Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family and containing cooking, sleeping, bathing and toilet facilities. The term shall include guest houses with kitchen facilities for preparing, cooking and storing food, manufactured homes, but not recreational vehicles.

Residual Basal Area: The sum of the basal area of trees remaining on a harvested site.

Resource Extraction: Any operation within a 12-month period which removes more than 100-cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and which transports the product removed away from the extraction site.

Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.

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1. **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 the meal.
2. **Fast Food 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 disposable containers.
3. **Drive-In Restaurant:** A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal, which is served in disposable containers.

Re-Subdivision: The further division of an existing subdivision or any changes of the lot size therein, or the relocation of any street or lot line in a subdivision.

Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

Right-of-Way: The area or strip of land over which the public has a right of passage in the case of a public way or street, or over which a private individual has the right of passage in the case of a private way, or over which the Town of Waldoboro or a utility has the right of passage for the installation, maintenance and repair of utility infrastructure.

Rip-Rap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River: A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

Riverine: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Salt Marsh: An area along coastal waters (most often along coastal bays) which supports salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is salt marsh cord grass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt Meadow: An area which supports salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cord grass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Satellite Receiving Dish: An exterior dish antenna designed to receive signals from satellites.

Sawmill: A mill or machine for sawing logs for commercial purposes.

School:

1. Public and Private - including Parochial School: An institution for education or instruction where any branch or branches of knowledge is imparted and which satisfies either of the following requirements:
 - a. The school is not operated for a profit or a gainful business; or
 - b. The school teaches courses of study which are sufficient to qualify attendance thereby in compliance with State compulsory education requirements.
2. Commercial School: An institution which is commercial or profit-oriented. Examples thereof are dancing, music, riding, correspondence, aquatic schools, driving or business.

Service Drop: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service:
 - a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and,
 - b. The total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service:
 - a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or,
 - b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback: The nearest horizontal distance from a lot line or normal high-water line of a water body, tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shipping Container: A roofed or unroofed container placed outdoors and used for the storage of goods, materials or merchandise, which are utilized in connection with a lawful principal or accessory use of the lot. The term "shipping container" includes, but is not limited to, containers such as boxcars, semi-trailers, roll-off containers, slide-off containers, railroad cars and "piggy-back" containers.

Shopping Center: A group of architecturally unified commercial establishments built on a site which is planned, developed, owned and managed as an operating unit related in its location, size and type of shops to one trade area that the unit serves. The unit provides on-site parking in definite relationship to the types and total size of the stores.

Shore Frontage: The length of a lot bordering on a water body measured in a straight line between the intersections of the side lot lines with the shoreline.

Shoreland Zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within two hundred and fifty (250) feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

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Shoreline: The normal high-water line of a water body, or upland edge of a freshwater or coastal wetland.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway.

Sign: A display surface, fabric or device containing organized and related elements (letters, pictures, products, or sculptures) composed to form a single unit, designed to convey information visually and which is exposed to the public view. In cases where matter is displayed in a random or unconnected manner without an organized relationship, each such component shall constitute a sign.

Skid trail: A route repeatedly used by forwarding machinery or animals to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash: The residue, e.g., treetops and branches, left on the ground after a timber harvest.

Social, Fraternal Organization: A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal membership requirements.

Special Flood Hazard Area: (see Area of Special Flood Hazard)

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

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial free-flowing bodies of water as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 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 the shoreland area.

Street: An existing State, County, or Town way or a road available for public or private use and shown upon a plan duly approved.

Street Classification:

1. **Arterial:** A major continuous route serving substantial statewide and interstate travel, linking cities, larger towns, and other major traffic generators, as classified by the Maine Department of Transportation (MDOT) under the provisions of 23 M.R.S.A. § 53 as amended. MDOT has classified U.S. Route 1 as a major arterial and Winslows Mills Road

(Route 32) as a minor arterial.

2. **Collector:** A road that carries traffic between residential areas and arterials, and roads between smaller communities, as classified by the Maine Department of Transportation, as cited above. Major collectors in Waldoboro are Route 220 and Bremen Rd. (Route 32). Minor collectors in Waldoboro are State Route 235 between U.S. Route 1 and the Warren town line, and Old Route 1 between the village center north to where it intersects with Route 1 in East Waldoboro.
3. **Industrial or Commercial:** A street servicing industrial or commercial uses.
4. **Minor:** A street providing access to adjacent land and primarily serving local traffic.
5. **Private:** A vehicular access way serving more than two (2) dwelling units, which is not proposed to be dedicated to the Town.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

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

Subdivider: An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, that proposes to build a subdivision. The term "subdivider" may include "developer" and "builder".

Subdivision: The division of a contiguous tract or parcel of land in the same ownership into three (3) or more lots within any five-year (5) period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purpose of this section.

In determining whether a tract, parcel of land or structure is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either of said first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot, unless both such dividings are accomplished by a subdivider who shall have retained one of such lots for his own use as a single-family residence or dwelling unit for a period of at least five (5) years prior to such second dividing. Each dwelling unit shall be considered to be a lot except for an accessory apartment physically attached to the primary dwelling unit.

Substantial Alteration: Any change in shape, size or design of a structure that involves expanding the floor area or volume.

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

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a

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structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

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

Substantial Start: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: Any system designed to dispose of waste or waste water beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. §414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Targeted Market Coverage Area: The area which is targeted to be served by a proposed telecommunications facility.

Temporary Building/Structure: (See Structure)

Tent: A portable shelter of canvas or other fabric, flexible plastic, etc., supported by poles or a metal frame, used for the purpose of temporary living quarters.

Tenting and Camper Trailer Park: (See Campground).

Theater: A facility devoted to showing motion pictures, or for dramatic, musical, or other live performances.

Tidal waters: All waters affected by tidal action during the maximum spring tide.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article 7. K. 17, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Tract or Parcel of Land: All contiguous land in the same ownership, provided that lands on the opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Traveled Way: That portion of the roadway for the movement of vehicles, exclusive of shoulders.

Tributary Stream: A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing water-borne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Trucking Terminals: Structures and parking areas for truck cabs and trailers used as a place to load and unload products, temporary storage of materials, and to dispatch vehicles for delivery. May also include vehicle repair and service, truck cleaning / washing, and related services.

Undue Hardship: The criteria for a finding of undue hardship are that the land in question cannot yield a reasonable return unless a variance is granted; that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; that the granting of a variance will not alter the essential character of the locality; and that the hardship is not the result of action taken by the applicant or a prior owner.

Unreasonable Adverse Impact: The criteria for a finding of unreasonable adverse impact are that the proposed project would produce an end result which is:

1. Excessively out-of-character with the designated scenic or other resources affected, including existing buildings, structures and features within a designated resource; and
2. Would significantly diminish the value of the designated resource.

Upland Edge: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Used Merchandise Sales: The outdoor sale of used articles, conducted for more than five (5) calendar days or for more than two (2) weekends per year. Used merchandise sales include flea markets.

Variance: A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. Variances are granted by the Board of Appeals.

Vegetation: All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and a half (4.5) feet above ground level.

Vehicle Sales: Any business which involves a parking or display area for the sale of new or used

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cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, boats, automobile sales, ATV's, snowmobiles, land and garden tractors, or similar products.

Vehicle Service: A place where, with or without the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body frame or fender straightening and repair, automobile body shop, overall painting and undercoating of automobiles, and vehicle washing, cleaning, and reconditioning.

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

Vernal Pool / Spring Pool: A shallow depression that usually contains water for only part of the year.

Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals, which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

View point: That location which is identified either in the municipally adopted comprehensive plan or by a federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

Violation: The failure of a structure or other development to fully comply with a community's regulations or ordinance.

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.

Waiver: A Planning Board decision not to require a normally-required element of an application, for cause.

Warehousing: The storage, deposit or stocking of merchandise or commodities in a structure or room.

Water Body: (See "Body of Water").

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 may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

Water-Oriented Business: A commercial or industrial facility which by its nature of operation requires a shorefront location, such as, but not limited to, boatyards, marinas, boathouses, and commercial fisheries facilities.

Wetlands Associated with Great Ponds and Rivers: Wetlands associated with great ponds or rivers are considered to be part of that great pond or river when they are contiguous with or adjacent to the great pond or river and during normal high water are connected by surface water to the great pond or river or are separated from the great pond or river by a berm, causeway, or similar feature less than 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, Coastal: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Wetland, Forested: Freshwater wetland dominated by woody vegetation that is approximately 20 feet tall, or taller.

Wetland, Freshwater: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres;
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
3. Not considered part of a great pond, coastal wetland, river, stream, or brook.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Wetland, Inland: Land, including submerged land, which consists of any of the soil types designated as poorly drained, or very poorly drained, and alluvial soils by the National Cooperative Soil Survey.

Wholesale: Selling to retailers or jobbers rather than to consumers.

Wireless Telecommunications Facility: Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, and personal communications service (PCS) or pager services.

Wood Working: A commercial activity involved in constructing, processing, cutting, and assembling wood products, furniture, and similar wood products.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

Yard: The cleared developed area around a structure.

Yard Sale: All general sales open to the public, conducted from or on residential premises for the purpose of disposing of personal property. Yard sale includes garage sales, porch sales, tag sales, and the like. Unless they occur on more than five (5) calendar days or for more than three (3) weekends a year, they shall not be considered to be “used merchandise sales” as defined in this Ordinance and shall not require a permit from the Code Enforcement Officer.

Appendix A. Maps

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Loitering Ordinance

ARTICLE 1. TITLE, PURPOSE & DEFINITIONS:

Section 1. TITLE:

This ordinance shall be known and may be cited as the Town of Waldoboro Loitering Ordinance.

Section 2. PURPOSE:

The purpose of this Ordinance is to promote the general health and welfare of the citizenry of the Town of Waldoboro.

Section 3. DEFINITION:

For the purpose of this Ordinance, the following terms, words, or phrases shall have the meaning set forth herein:

3-1 LOITERING

Shall mean remaining in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; and to stand around.

3-2 PUBLIC PLACE

Shall mean any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public streets, ways, grounds, areas or parks.

ARTICLE 2. GENERAL:

Section 4. UNLAWFUL TO LOITER:

It shall be unlawful for any person to loiter either along and/or in consort with others in a public place in such manner as to:

4-1 Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;

4-2 Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress and egress, therein, thereon and thereto.

ARTICLE 3. PENALTY, SEPARABILITY & EFFECTIVE DATE:

Section 5. PENALTY:

When any person causes or commits any of the conditions enumerated in Section 4 herein, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this Ordinance and be punished by a fine or not less than \$50.00 or more than \$200.00, and/or, not more than ten (10) days in jail.

Section 6. SEPARABILITY:

The invalidity of any provisions of this Ordinance shall not invalidate any other part.

Section 7. EFFECTIVE DATE:

The effective date of this Ordinance shall be March 10, 1984, and shall supersede the Loitering Ordinance enacted at Town Meeting held March 1, 1965.

Given under our hands at said Waldoboro, Maine this
sixth day of January, A.D. 1984.

Dollena C. Prescott
Dollena C. Prescott, Chairman

William B. Blodgett
William B. Blodgett

Ralph A. Simmons, Jr.
Ralph A. Simmons, Jr.

Betty Lou Lee
Betty Lou Lee

William A. Freeman
William A. Freeman
Board of Selectmen

Attest:

Lee L. Smith
Lee L. Smith
Town Manager

ATTEST: A true copy of an Ordinance entitled
"LOITERING ORDINANCE" for the Town
of Waldoboro, as certified to me by
the municipal officers of Waldoboro on
the 27th day of February, 1984.

Patricia L. Chapman
Town Clerk

**TOWN OF WALDOBORO
ORDINANCE**

RESTRICTING VEHICLE WEIGHT ON POSTED WAYS

Section 1. Purpose and Authority

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

This ordinance is adopted pursuant to 30-A M.R.S.A. §3009 and 29-A M.R.S.A. § 2395 and 2388.

Section 2. Definitions

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

Section 3. Restrictions and Notices

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

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

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

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

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

Section 4. Exemptions

The following vehicles are exempt from this ordinance:

- (a) any two-axle vehicle while delivering home heating fuel;
- (b) any vehicle while engaged in highway maintenance or repair under the direction of the State or Town of Waldoboro;
- (c) any emergency vehicle (such as firefighting apparatus or ambulances) while training or responding to an emergency;
- (d) any school transportation vehicle while transporting students;
- (e) any public utility vehicle while providing emergency service, repairs, or installation; and
- (f) any vehicle whose owner or operator holds a valid permit from the municipal officers or their designee as provided herein.

Section 5. Permits

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

- (g) no other route is reasonably available to the applicant;
- (h) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (i) the applicant has tendered cash, a bond or other suitable security acceptable to the Town in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal officers or their designee make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the municipal officers or their designee shall consider the following factors:

- (j) the gross registered weight of the vehicle;
- (k) the current and anticipated condition of the way or bridge;
- (l) the number and frequency of vehicle trips proposed;
- (m) the cost and availability of materials and equipment for repairs;
- (n) the extent of use by other exempt vehicles; and
- (o) such other circumstances as may, in their judgment, be relevant.

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

Section 6. Administration and Enforcement

This ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee (such as road commissioner, code enforcement officer or law enforcement officer).

Section 7. Penalties

Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.

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

Section 8. Amendments

This ordinance may be amended by the municipal officers at any properly noticed meeting.

Section 9. Severability; Effective Date

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

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

Town of Waldoboro, Maine
Shellfish Conservation Ordinance

(Revised June 13, 2017)

1. Authority.

This ordinance is enacted in accordance with 12 M.R.S.A. § 6671.

2. Purpose.

To establish a Shellfish Conservation Program for the Town of Waldoboro which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- a. Improving water quality;
- b. Licensing;
- c. Limiting the number of shellfish harvesters;
- d. Restricting the time and area where digging is permitted;
- e. Limiting the minimum size of clams taken.

3. Shellfish Conservation Committee.

The Shellfish Conservation Program for the Town of Waldoboro will be administered by the Shellfish Conservation Committee consisting of nine (9) members to be appointed by the Board of Selectmen for terms of three years, except the initial appointment which shall be for 1, 2, or 3 years. The Selectmen shall appoint a person to fill a vacancy for the unexpired term if a member terminates. The committee shall choose a chairman, vice-chairman and secretary. Any committee member who has more than three (3) unexcused absences from committee meetings in a year shall be removed and replaced with a new member by the Selectmen. The Committee shall act by majority vote calculated on the basis of those present and voting. *(Note Section 3 - Amended June 10, 2004)*

The Committee's responsibilities include:

- a. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued;
- b. Reviewing annually the status of the resource using the results of clam flat, harvester or dealer surveys and other sources of information and preparing in conjunction with and subject to the approval of the department a plan for implementing conservation measures; *(Note - Section 3.b amended June 15, 2000)*
- c. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation;
- d. Keeping this ordinance under review and making recommendations for its amendments;

- e. Securing and maintaining records of shellfish harvest from the town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources;
- f. Recommending conservation closures and openings to the Board of Selectmen in conjunction with the Area Biologists of the Department of Marine Resources;
- g. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other committee activities;
- h. To work with the officials of the Town of Waldoboro and various State of Maine Departments to improve water quality which will result in more shellfish producing areas to be opened for harvesting.

4. **Definitions.**

- a. Resident - The term "resident" refers to a person who has been physically resided at a fixed, permanent and principle home in this municipality for at least three (3) months next prior to the time his claim of such residence is made.
- b. Nonresident - The term "nonresident" means anyone not qualified as a resident under this ordinance.
- c. Shellfish, Clams and Intertidal Shellfish Resources - When used in the context of this ordinance the words "shellfish", "clams", and "intertidal shellfish resources" mean soft shell clams (*Mya arenaria*) and razor clams (*Ensis directus*).
- d. Municipality - Refers to Town of Waldoboro, Maine.
- e. Junior Resident - The term "Junior Resident" means a resident of the Town of Waldoboro 10-18 years of age.
- f. Junior Non Resident - The term "Junior Non Resident" means a non resident of the Town of Waldoboro 10-18 years of age.
- g. Lot - The word "lot" as used in this ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel, or other container constitutes a separate lot.
- i. Shellfish Conservation Work – The term Shellfish Conservation as used in this ordinance shall be broadly defined and shall include, but is not limited to, such activities as reseeding, river clean up, pollution abatement, predator eradication, surveying and information gathering, testing and sampling and any another activity that the Shellfish Conservation Committee deems as fostering the general purposes of this ordinance. *(Note - amended February 25, 2014)*

5. **Licensing.**

Municipal Shellfish Digging License is required for anyone ten (10) years or older. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without

having a current license issued by this municipality as provided by this ordinance. (*Amended June 9, 2015*)

A Commercial Digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources.

a. Designation, Scope and Qualifications:

1. Resident Commercial Shellfish License:

The license is available to residents of the Town of Waldoboro and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.

2. Nonresident Commercial Shellfish License:

The license is available to nonresidents of this municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.

3. Resident Recreational Shellfish License:

The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in anyone day for the use of licensee and licensee's immediate family. Applicants who have reached 60 years of age shall be entitled to a free license. A person holding a Maine State Commercial Shellfish license may not be issued or hold a resident or non-resident recreational clam harvest license. (*Note - Section 5.a.3 Amended June 15, 2000, June 16, 2005, June 14, 2016*)

4. Nonresident Recreational Shellfish License:

The license is available to any person not a resident of this municipality and entitles the holder to dig and take not more than one peck of shellfish in anyone day for the use of licensee and licensee's immediate family. Applicants who have reached 60 years of age shall be entitled to a free license. A person holding a Maine State Commercial Shellfish license may not be issued or hold a resident or non-resident recreational clam harvest license. (*Note - Section 5.a.4 Amended June 15, 2000, June 16, 2005, February 12, 2008, June 14, 2016*)

5. Junior Resident Commercial Shellfish License:

The license is available to junior residents of the Town of Waldoboro and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities. Junior licenses will be issued yearly to any junior (10-18) enrolled in

school. A junior license holder will be entered into the appropriate class at age 19. *(Note - Section 5.a.5 Amended June 15, 2000, June 9, 2015.)*

6. Junior Non-Resident Commercial Shellfish License:

The license is available to junior non-residents and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities. Junior licenses will be issued yearly to any junior (10-18) enrolled in school. A junior license holder will be entered into the appropriate class at age 19. *(Note - Section 5.a.6 Adopted June 15, 2000, June 9, 2015)*

7. Open License Sales:

When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year:

Notice of dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in the newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner of Marine Resources.

For each commercial license category, the Town Clerk shall issue one license to nonresidents when six licenses are issued to residents and one more to nonresidents when four more are issued to residents; thereafter, one nonresident license will be issued for every ten additional resident license issued. For each recreational license category, the Town Clerk shall issue one license to a resident and one to a nonresident; thereafter, one nonresident license will be issued for every ten additional resident licenses issued. *(Note - Section 5.a.7 Adopted June 15, 2000)*

8. License Must Be Signed:

The licensee must sign the license to make it valid.

b. Application Procedure:

Any person may apply to the Town Clerk for the licenses required by this ordinance on forms provided by the municipality.

1. Contents of Application:

The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, and signature (*Amended, June 9, 2015*)

2. Misrepresentation:

Any person who gives false information on a license application will cause said license to become invalid and void. Proof of identity and residency may be required to obtain a license. (*Amended June 9, 2015*)

c. Fees:

The fees for the licenses are as stated on the reverse side of the application and must accompany in full the application for the respective license. Effective January 1, 2006 the Board of Selectmen shall establish shellfish license fees under such terms and conditions as they deem advisable, after notice and public hearing. Before making any adjustment, the board will consider the recommendation of the Shellfish Conservation Committee. The Town Clerk shall pay all fees received to the Town Treasurer. Fees received for shellfish licensing shall be used by the town for shellfish management, conservation and enforcement.

Applicants for a commercial shellfish harvester's license for the issuance year 2014-2015 and beyond may volunteer to perform (6) six hours of shellfish conservation work in exchange for a reduction in the license fee. The fee reduction can total \$60. An applicant who has (6) six hours of unused conservation time is eligible to use that credit toward the future purchase of a shellfish license. If the applicable state or federal minimum wage, multiplied by (6) six, is greater than \$60, then the reduction in the license fee shall be that greater amount. Work performed shall be approved by the Shellfish Conservation Committee. At a minimum four (4) hours must be conservation reseeding unless waived in whole or in part by the Shellfish Conservation Committee.

Applicants who, by the 2nd Monday in July, have not reached 19 years of age are exempt from any and all conservation work. Applicants that have reached 60 years of age, or are not able to perform voluntary shellfish conservation work due to the fact that they were on active military duty, shall also be entitled to the above described reduction in the license fee and shall not have to perform the (6) six hours of conservation work.

In the event of an occurrence of an unusual amount of river closures to shellfish harvesting during the months of June and July, the Shellfish Conservation Committee, in conjunction with the DMR, may request that the Board of Selectmen determine that an emergency situation exists for the purchasing of licenses. If an emergency situation is determined, the Board of Selectmen, with guidance from the Shellfish Committee, may adjust the issuance dates and/or payment dates for licenses. *(Note - Amended March 9, 1993; January 8, 1994; June 15, 2000; June 10, 2004, June 16, 2005, May 1, 2007, February 12, 2008, November 3, 2009, June 9, 2015)*

d. Limitation of Diggers:

Clam resources vary in density and size distribution from year to year and over the limited soft clam producing area of the town. It is essential that the town carefully manage its shellfish resources. Following the annual review of the town's clam resources, its size distribution, abundance and the warden's reports, as required by Section 3, the Shellfish Conservation Committee in consultation with the DMR area biologist will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year. *(Amended June 9, 2015)*

1. Prior to February 15 the committee shall report its findings and document recommendations for the allocating of commercial and recreational licenses to be made available for the following license-year to the Commissioner of Marine Resources for concurrence. *(Note - Section 5.d.1 Amended June 15, 2000 and February 25, 2014)*
2. After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to May 15, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued. *(Note - Section 5.d.2 Amended June 15, 2000)*
3. Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than ten (10) days prior to the period of issuance and shall be posted in the municipal offices until the period concludes. The Town Clerk will prepare a list of the persons eligible for licenses in Classes A through C. The public notification of license availability shall include a statement that the list is posted at the Town Office. No shellfish licenses may be

reserved and licenses cannot be transferred or resold. New applicants for a shellfish license who meet the requirements of this article must obtain the shellfish license in person. Previous year license holders may delegate an individual to purchase their license if they are unable to do so on their two day issuing dates. A written authorization must accompany delegated individual.

4. The Town Clerk shall issue resident commercial and non-resident commercial licenses according to the selection process described below. Resident applications and non-resident applications shall be segregated in each class. If the number of applicants in a class exceeds the available number of licenses in that class preference will be given to those individuals that have completed conservation work and the remaining licenses will be selected by lottery. The classes shall be followed in descending order. A number equivalent to no less than ten percent of the total number of resident commercial licenses, regardless of class, shall be issued to non-resident commercial applicants. The classes are:
 - a. Applicants who have held commercial licenses for three (3) of the last three (3) years.
 - b. Applicants who have held commercial licenses for two (2) of the last three (3) years.
 - c. Applicants who have held commercial licenses for one (1) of the last three (3) years.
 - d. Applicants who have held commercial licenses for zero (0) of the last three (3) years.

On the second Monday in July the Town Clerk shall issue licenses in Class A. The licenses shall be purchased by the end of business on Tuesday of that week.

If licenses remain, the Town Clerk shall issue licenses in Class B on Wednesday of that week. The licenses shall be purchased by the end of business on Thursday.

If licenses remain, the Town Clerk shall issue licenses in Class C on Friday of that week. The licenses shall be purchased by the end of business on Monday of the following week.

If licenses remain, the Town Clerk shall issue licenses in Class D on Tuesday of that week. The licenses shall be purchased by the end of business on Thursday of that week.

If licenses remain, the Town Clerk shall issue them to residents and non-residents on a first-come, first-serve basis as allocated. *(Note - amended February 25, 2014, June 9, 2015)*

The Town Clerk or the Town Clerk's designee shall begin to issue resident and non-resident recreational shellfish licenses on July 15.

For the purpose of the above selection process, a Waldoboro resident who establishes residency in another place outside of Waldoboro, shall not be considered as previously having a Waldoboro resident Commercial Shellfish License. *(Note - Section 5.d.4 - Licensing amended June 11, 1996, February 27, 2007, and February 12, 2008) (Note - Section 5.d.5 Enacted March 5, 1993 and Repealed January 8, 1994)*

- e. License Expiration Date:
Each license issued under authority of this ordinance expires at midnight on the thirty-first day of July next following date of issue. *(Note - Amended March 5, 1993; June 11, 1996 and June 15, 2000)*
- f. Reciprocal Harvesting Privileges:
Licenses from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of this license.
- g. Suspension:
Any shellfish licensee having three convictions for a violation of this ordinance shall have his shellfish license automatically suspended for a period of thirty (30) days.
 - 1. A licensee whose shellfish license has been suspended pursuant to this ordinance may reapply for a license only after the suspension period has expired.
 - 2. The suspension shall be effective from the date of mailing of a Notice of Suspension by the Town Clerk to the licensee.

3. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request for Hearing with the Town Clerk within thirty (30) days following the effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee before the Board of Selectmen by filing a written Request for Appeal with the Town Clerk within seven (7) days of the decision of the Shellfish Conservation Committee.

6. **Opening and Closing of Flats.**

The Municipal Officers, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendations of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Municipal Officers may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Officers made after the hearing shall be based on findings of fact. Notification of municipal conservation closures or openings shall be provided in accordance with DMR regulation, Chapter 7.50 (c). *(Note - Amended June 14, 2016)*

It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by the Town of Waldoboro in accordance with DMR Regulations, Chapter 7. Harvesting shellfish in a closed area is a violation of this municipality's ordinance and is punishable under MSRA Title 12 sub 6671.

Boundaries of conservation closures are explicitly defined in the conservation closure application submitted by the Town of Waldoboro to DMR and are part of the resulting permit issued by DMR. The permits are posted at the town office and online: <http://www.maine.gov/dmr/shellfish-sanitation-management/programs/municipal/ordinances/towninfo.html>.

7. **Minimum Legal Size of Soft Shell Clams.**

It is unlawful for any person to possess soft shell clams within the Town of Waldoboro, County of Lincoln, which are less than two (2) inches in the longest diameter except as provided by subsection b of this section.

1. **Possess** - For the purpose of this section, "possess" means dig, take, harvest, ship, transport, hold, buy, and sell retail and wholesale soft shell clam shell stock.

- b. Tolerance:
Any person may possess soft shell clams that are less than two (2) inches if they comprise less than 10% of any lot. The tolerance shall be determined by numerical count of not less than one peck nor more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.
- c. Penalty:
Whoever violates any provision of this ordinance shall be punished as provided by 12 MRSA Section 6681.

8. Taking of Razor Clams.

In accordance with DMR Regulations Chapter 10.06 it shall be unlawful for any person to harvest, take or possess razor clams within the Town of Waldoboro, County of Lincoln, which are less than four (4) inches. It shall be unlawful to fish or take razor clams by using electrical fields emitted by any kind of device including electrodes

9. Penalty.

A person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671. *(Note - Amended April 26, 1994)* A municipal license holder who aids and abets the harvest of shellfish in violation of this Ordinance shall be subject to the same penalties as the person he/she assisted. *(Note - Amended June 12, 2012, June 9, 2015)*

10. Effective Date.

This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy of the ordinance is filed with Commissioner within twenty (20) days of its adoption.

11. Separability.

If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

12. Repeal.

Any ordinance regulating the harvesting or conservation of shellfish in the town and any provisions of any other town ordinance which is inconsistent with this ordinance is hereby repealed.

Approved June 13, 2017 by Town Meeting.

Certification of Municipal Officers

S/ _____
Clinton Collamore

S/ _____
Joanne Minzy

S/ _____
Robert L. Butler

Attest to all:

S/ Julie Keizer
Town Manager

S/ _____
Abden S. Simmons

S/ _____
Katherine W. Winchenbach

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**WALDOBORO
SOLID WASTE DISPOSAL AND
REQUIRED RECYCLING ORDINANCE**

ARTICLE I. Title, Purpose, & Definitions

- 1.1. Title: This Ordinance shall be known, and may be cited, as Amended and Restated Waldoboro Solid Waste Disposal and Required Recycling Ordinance. This Ordinance amends, restates, replaces and supersedes Chapter 65, Solid Waste Disposal dated March 24, 1980, as amended.
- 1.2. Purposes: This Ordinance:
 - 1.2.1. protects the health, safety and general well being of the citizens of Waldoboro;
 - 1.2.2. provides for the orderly and cost-effective disposal of solid waste;
 - 1.2.3. enhances and maintains the quality of the environment and conserves natural resources;
 - 1.2.4. prohibits littering and water and air pollution;
 - 1.2.5. provides for an adequate disposal facility and its maintenance;
 - 1.2.6. expressly limits use of the Transfer Station to Residents and Permitted Users;
 - 1.2.7. protects all Permitted Users and Residents from the misuse of taxes and fees they pay for the operation of the Transfer Station;
 - 1.2.8. requires the lawful disposal of Solid Waste to extend the useful life of the Landfill; and
 - 1.2.9. requires recycling to achieve all of the foregoing purposes.
- 1.3. Definitions
 - 1.3.1. Board means the Select Board of Waldoboro.

- 1.3.2. Bulky Waste includes but is not limited to furniture, drapes and other furnishings, mattresses, box springs, ropes, fencing, appliances, carpets and carpet padding and certain miscellaneous items, which are more fully described in Attachment A.
- 1.3.3. Compostable Waste includes leaves, grass clippings, prunings, and other similar wastes resulting from lawn care and gardening. Compostable Waste is more fully described in Section 2.7
- 1.3.4. Construction and Demolition Debris means mineral refuse and debris resulting from construction, remodeling, repair, or demolition of structures and is more fully described in Attachment A.
- 1.3.5. Disposal Methods refers to the methods Permitted Users and Residents use or may use to dispose of Solid Waste. Disposal methods may include Pay-Per-Bag or Single Stream or other generic methods of Disposing of Solid Waste.
- 1.3.6. Garbage or Trash mean everyday items Residents and Permitted Users generate and discard. It refers specifically to Solid Waste, which the Transfer Station does not recycle or place in the Landfill. Garbage and Trash do not include Bulky Waste, Compostable Waste, Construction and Demolition Debris, Recyclables, and Universal Waste.
- 1.3.7. Landfill means the area or areas the Board designates from time-to-time for the disposal of categories of Construction and Demolition Debris and the collection of Bulky Waste, and other items, which are not Garbage or Trash.
- 1.3.8. Partner means any town or municipality, which has joined or will join Waldoboro's efforts to collect, dispose of and recycle Solid Waste at the Transfer Station and the Landfill in accordance with the terms of this Ordinance.
- 1.3.9. Municipal Services Agreement means the agreement among Waldoboro and the Partners to share, among other things, the expenses of operating the Transfer Station. This Ordinance makes reference to The Municipal Services Agreement in Section 2.9.
- 1.3.10. Permitted User means any Resident, Resident Business, qualified part-time resident, or Waste Hauler holding a properly placed Transfer Station decal or permit.
- 1.3.11. Recyclables means items that can be reused or reclaimed to produce a new product. Recyclables include the items listed and described in Attachment A.

- 1.3.12. Resident means any person who maintains his, her, or its legal residence in Waldoboro or the Towns of Cushing or Friendship or any other town, which is or becomes a Partner. Resident also means summer residents or others who reside seasonally in Waldoboro or in one of the Partners and who may qualify to obtain a Transfer Station decal or permit.
- 1.3.13. Resident Business means any legally established commercial, professional, retail, wholesale or other business or legal entity conducting its operations within the boundaries of Waldoboro or a Partner.
- 1.3.14. Scale means the duly certified and annually tested instrument, which conforms to Maine and National Measurement Standards and which the Transfer Station uses to determine the weight of Solid Waste transported to the Transfer Station for disposal.
- 1.3.15. Solid Waste means Bulky Waste, Compostable Waste, Construction Demolition Debris, Garbage or Trash, Recyclables, and Universal Waste. Solid Waste does NOT include Unacceptable Waste.
- 1.3.16. Swap Shop means that area of the Transfer Station where Permitted Users may ~~recycle~~ place discarded items that are still useable. The rules for establishing and operating the Second Hand Shop are set forth in Attachment C.
- 1.3.17. Tax Collector means the Tax Collector of Waldoboro.
- 1.3.18. Transfer Station means the land, buildings, and other facilities the Board has set aside for the disposal of Solid Waste.
- 1.3.19. Transfer Station Committee means the committee more fully described in Article II, Section 2.4.
- 1.3.20. Unacceptable Waste includes, but is not limited to, hazardous wastes, biomedical wastes (except as noted in Attachment A), containers that previously contained pesticides, infectious waste, asbestos, and special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended. It also includes waste that is prohibited because it does not meet the requirements of Article II, Section 2.3.4 of this Ordinance. Unacceptable Waste is more fully described in Attachment A.
- 1.3.21. Universal Waste is a category of Recyclables. It refers to electrical appliances, including but not limited to, televisions, radios and computers, which are collected at the Transfer Station for a fee and transported to appropriate disposal areas. Universal Waste also includes compact fluorescent lamps (CFLs). Universal Waste is more fully described in Attachment A.

1.3.22. WTS Manager means the employee, whom the Town Manager of Waldoboro appoints to operate and manage the Transfer Station.

1.3.23. Waste Hauler means any person or company holding a valid Waste Hauler license or permit from the Town of Waldoboro and who charges a fee for hauling Solid Waste to the Transfer Station.

ARTICLE II. General Provisions

2.1. Storage and Disposal Requirements: Storage of Solid Waste prior to removal to the Transfer Station shall be the responsibility of all dwellings and commercial and industrial facility owners or primary occupants, including Residents and Resident Businesses. All shall store their Solid Waste in closed containers or by using other similar methods to preclude odors, rodents, insects, and other vermin from becoming a nuisance or health hazard.

2.2. Transfer Station Area and Landfill

2.2.1. Transfer Station Area. The Board, in consultation with the Transfer Station Committee and subject to a vote of the citizens of Waldoboro, shall establish, from time-to-time, an area or areas for the Transfer Station and shall maintain a permanent posting of the Transfer Station's location on the Waldoboro website.

2.2.2. Landfill. The Board, in consultation with the Transfer Station Committee and after a public hearing, may designate from time-to-time a Landfill or Landfills for the disposal of categories of Demolition Debris.

2.3. Use of the Transfer Station and Landfill

2.3.1. Recycling Required. This Ordinance requires recycling. Recycling minimizes the costs of disposing of and transporting Solid Waste, offsets the cost of operating the Transfer Station, and extends the life of the Landfill. All Permitted Users shall dispose of all Solid Waste and shall recycle in accordance with this Ordinance and the regulations of the State of Maine. (Please refer to Attachment A for re-cycling rules and guidelines.) In the event of a conflict between this Ordinance and State of Maine regulations, the regulations of the State of Maine shall apply if they are more restrictive.

2.3.2. Sole Use for Permitted Users. The Transfer Station and Landfill are solely for the use of Permitted Users. All Permitted Users must hold a valid Transfer Station decal or permit to use the Transfer Station and/or Landfill. All others are strictly prohibited from using the Transfer Station and the Landfill(s).

2.3.3. Transfer Station Decals and Permits. Each vehicle entering the Transfer Station or the Landfill must display either a decal or a permit valid for the then current calendar year or a defined period falling within the then current calendar year. The decal or permit shall be affixed or displayed in accordance with its instructions. Transfer Station employees shall turn away, or may enlist the support of Waldoboro police to turn away, vehicles without valid decals or permits. Permitted Users shall obtain their decals or permits in the manner set forth in Attachment A.

2.3.4. Origin of Solid Waste. No person, firm, corporation or other legal entity residing or operating as one or more of the Partners shall deposit, or cause or permit to be deposited, Solid Waste or Unacceptable Waste in any structure or on, or under, any land within Waldoboro or areas owned or occupied by, or allocated to, a Permitted User or Partner, which originates or is collected from or is in any way gathered, generated, or collected from outside the borders of Waldoboro or the Permitted Users or the Partners. Permitted Users shall not deposit Solid Waste at the Transfer Station or Landfill that has been conveyed, or given to them by non-residents or individuals, entities, firms, or corporations which are not Permitted Users.

2.3.5. Disposal Methods, Dumping Fees, Unacceptable Waste and Littering. All Solid Waste, including all Recyclables, generated from within the confines of Waldoboro and the Partners shall be deposited at the Transfer Station and/or the Landfill, except those items specifically exempted in Attachment A.

2.3.5.1 Disposal Methods. A majority of the Voters of the Town of Waldoboro casting their ballots at Open Town Meeting or during a Referendum Vote shall determine all Disposal Methods. The Transfer Station Committee shall recommend Disposal Methods to the Board. The Board shall conduct public hearings prior to placing articles regarding Disposal Methods on the Town Warrant.

2.3.5.2. Dumping Fee: Permitted Users, who deposit Solid Waste, which is NOT accompanied by Recyclables of a weight or volume set forth in Attachment A, shall pay the Dumping Fee set forth in Attachment B. The Dumping Fee shall be due whether or not an exemption for such Solid Waste is set forth in Attachment A.

2.3.5.3. Unacceptable Waste Prohibited. Unacceptable Waste shall not be deposited at the Transfer Station or the Landfill; it must be handled in the manner set forth in Attachment A.

2.3.5.4. Littering Prohibited. This Ordinance prohibits littering; dumping along roads, by-ways, streets and highways; unauthorized junkyards; and other

activities, which result in the deposit of Solid Waste or Unacceptable Waste outside of the boundaries of the Transfer Station or Landfill. Littering and unauthorized dumping are subject to the penalties and fines set forth in Attachment B of this Ordinance.

2.3.6. Waste Haulers and Waste Hauler Licenses.

2.3.6.1.Waste Hauler License Required. No person shall engage in the business or businesses of collection, transportation or disposal of Solid Waste within the borders of Waldoboro and the Partners without a valid license. Waste Haulers must apply for and obtain a license for use of the Transfer Station from the Tax Collector in accordance with Attachment A. Waste Hauler Licenses shall be valid for a period of one year, unless sooner revoked for cause. The Board may limit the number of Waste Hauler licenses the Tax Collector may issue. The Board shall from time-to-time establish the annual Waste Hauler license fees set forth in Attachment B. Waste Hauler licenses are not transferable and only the business and/or applicant identified on the application and the license itself may use them.

2.3.6.2.Separation of Solid Waste. Waste Hauler vehicles shall adequately accommodate the separation of Recyclables from other Solid Waste. Except as noted in Appendix A, Waste Haulers shall deposit at the Transfer Station all of the Recyclables they collect from their customers or pay the fees set forth in Attachment B.

2.3.6.3.Inspection Certificates. Waste Haulers shall transport their collected Solid Waste in vehicles with up-to-date inspection certificates. Waste Haulers shall not engage the services of drivers who do not carry valid drivers' licenses for the classes of vehicles the Waste Haulers operate.

2.3.6.4.Vehicles Covered. Waste Haulers shall cover their vehicles to keep their loads dry and to prevent the loss of any Solid Waste during collection, transport, and disposal operations. Waste Haulers cited for littering shall incur the fines and penalties set forth in Attachment B.

2.3.6.5.Sanitize Vehicles. Waste Haulers shall clean and disinfect their vehicles to eliminate possible odors and prevent vermin. Transfer Station employees may prevent unsanitary Waste Hauler vehicles from entering and using the Transfer Station and the Landfill.

2.3.6.6.Scale Weights. Transfer Station employees may require Waste Haulers to obtain full and empty weights at the Scale to determine dumping fees and penalties, if applicable.

2.3.6.7.Origins of Solid Waste. Waste Haulers must not collect and deposit at the Transfer Station Solid Waste or Universal Waste originating from or generated by clients located outside the borders of Waldoboro and the Transfer Station Partners.

2.3.6.8.Non-Compliance. A Waste Hauler's failure to comply with any provision of this Ordinance shall result in the payment of the fines and penalties set forth in Attachment B. Waste Hauler non-compliance with this ordinance shall constitute a civil violation and shall be sufficient cause for the Transfer Station Committee immediately to recommend to the Board the revocation of the Waste Hauler's license.

2.3.7. Scavenging and Salvaging. This Ordinance absolutely prohibits the scavenging and salvaging of materials from the Landfill because such activities can lead to injuries and other risks and hazards.

2.3.8. Unacceptable Waste.

2.3.8.1.Unacceptable Waste is more fully described in Attachment A. Only duly licensed companies and/or individuals may dispose of Unacceptable Waste. Licenses for the disposal of Unacceptable Waste require final approvals from the municipal, state, and federal agencies concerned. Unacceptable Waste must be disposed of in accordance with all applicable state and federal regulations.

2.3.8.2.Permitted Users who do not have licenses to dispose of Unacceptable Waste shall contract with companies the State of Maine has duly licensed to dispose of Unacceptable Waste.

2.3.8.3.The Transfer Station shall not take Unacceptable Waste. No person shall dispose of Unacceptable Waste anywhere within the borders of the Partners unless the Select Board has designated a site for Unacceptable Waste and Waldoboro or one of the Partners has obtained the required state and federal approvals for an Unacceptable Waste disposal site.

2.3.9. Attachments. This Ordinance hereby incorporates Attachments A and B, which are by reference made a part of it. The Board shall have the sole authority to amend and/or re-state or replace Attachments A and B, and to add attachments consistent with the terms of this Ordinance. Such amendments, restatements, replacements or additions shall occur only after the Board has held public hearings and has conducted openly public and televised consultations with the Transfer Station Committee.

2.4. Transfer Station Committee, Enforcement, Complaints, and Penalties

2.4.1 Purposes. The Transfer Station Committee shall:

- 2.4.1.1. Deliberate over and recommend Transfer Station Rules, which shall be consistent with the terms of this Ordinance and subject to the Board's approval;
- 2.4.1.2. Recommend the Transfer Station's hours of operation to the Board;
- 2.4.1.3. Recommend Recycling and Disposal Methods and policies to the Board;
- 2.4.1.4. Hear complaints and act upon them. The Committee may agree with the aggrieved party and recommend Ordinance changes or other actions to the Board. Alternatively the Committee may recommend sanctions or penalties for unacceptable behaviors or actions of Permitted Users. Penalties may include fines, revocation of licenses, requests for police action, sanctions, and any combination of the foregoing;
- 2.4.1.5. Recommend policies concerning Waste Haulers to the Board;
- 2.4.1.6. Make recommendations to the Board concerning signs at the Transfer Station;
- 2.4.1.7. Recommend changes or additions to the Transfer Station's physical layout and equipment. Such recommendations may relate, but not be limited, to reducing costs, improving service and efficiency, adding services and equipment, and containing the rate of growth of the cost of operating the Transfer Station and the Landfill;
- 2.4.1.8. Recommend fees charged to cover costs of operating the Transfer Station; and
- 2.4.1.9. On an as-needed basis, appoint Committee members to attend meetings of the Municipal Review Committee (MRC) and of the Penobscot Energy Recovery Company (PERC) and to report back to the Committee in order that the Committee may deliberate over MRC and PERC proceedings and make recommendations to the Board.

2.4.2 Transfer Station Committee Membership

The Transfer Station Committee shall consist of three seats from Waldoboro and two seats from each Partner. One of each Partner's two seats shall be allocated to a currently sitting select board member of such Partner -- or former select board member -- and one seat shall be allocated to a Resident of such Partner. The select board of each Partner shall appoint its respective Transfer Station Committee members. One of the three Waldoboro Transfer Station Committee seats shall be allocated to a Waste Hauler, one seat shall be allocated to a currently sitting Board member, and the third seat shall be a non-seasonal Resident of Waldoboro. (If a Waste Hauler is not available to take the allocated

seat, the Board may appoint a non-seasonal Resident to the seat.) The select boards of Partners and the Board may choose alternates to attend Transfer Station Committee meetings. Alternates may vote at meetings at which their permanent members are not present. The Head of Waldoboro's Department of Public Works and the WTS Manager shall attend all Transfer Station Committee meetings in an advisory capacity. They shall not vote.

2.4.3. Transfer Station Committee Meetings. All Transfer Station Committee meetings shall be public and shall occur at least monthly in the Waldoboro Town Office, where they must be recorded for television broadcasts. During the first July meeting of each year, the Transfer Station Committee members shall elect a chairperson, a vice-chairperson, and a Secretary, all of whom may serve until the next succeeding July meeting. During each annual July meeting, the Chairperson of the Transfer Station Committee shall obtain the consensus of all Committee members regarding meeting schedules, creation of agendas, and rules for conducting business.

2.4.3.1. Quorum. A quorum shall be required at each Transfer Station Committee meeting. A quorum shall consist of the presence of a "majority plus one" Transfer Station Committee members.

2.4.3.2. Majority Vote. All actions or decisions of the Transfer Station Committee shall be by majority vote of the members present.

2.4.3.3. Failure to Attend Meetings. The failure of any Transfer Station Committee Member to attend three consecutive regularly scheduled Transfer Station Committee meetings without an excused absence from the Committee Chairperson, shall constitute sufficient grounds for the Committee Chairperson or, if applicable, the Committee Vice Chairperson, to remove such member from the Transfer Station Committee. The vacated seat shall be filled in the same manner of appointment as initially used to fill the seat.

2.4.3.4. Committee's Failure to Act. In the event the Transfer Station Committee fails to reach agreement, for whatever reason, concerning any matter for which this Ordinance bestows responsibility, then one or more of the Waldoboro members of the Committee may request in writing that the Board assume responsibility for the matter.

2.5 Enforcement of Transfer Station and Landfill Rules.

2.5.1 Inspections. Transfer Station employees shall have the authority to stop any vehicle and inquire of any person entering the Transfer Station and/or Landfill. They have the absolute right to examine any material a person brings to the

Transfer Station and/or Landfill to determine compliance with this Ordinance. Entry of Unacceptable Waste into the Transfer Station and/or Landfill is strictly prohibited. Entry of Solid Waste that is not separated in accordance with the terms of this Ordinance or which this Ordinance prohibits may, in the discretion of the WTS Manager, be subject to the fees set forth in Attachment B. Transfer Station employees shall prevent the entry of any and all vehicles without valid decals or permits. Police enforcement may be called upon. Violators of this Ordinance shall be called to account and, if the Board, by recommendation of the Transfer Station Committee, deems appropriate, prosecuted and/or barred from the use of the Transfer Station and the Landfill. A violation of this ordinance shall be deemed a civil violation.

2.5.2 Inspection Refusals. Any Transfer Station employee or the Head of Waldoboro's Department of Public Works may reasonably request the departure from the Transfer Station and/or Landfill of any occupant of any vehicle, who refuses to allow Transfer Station employees to inspect the Solid Waste contents of the vehicle or who refuses to answer questions about the nature of the contents of the vehicle or who behaves in an insulting or abusive manner. The refusal of such request may constitute trespassing. The police may be called upon to enforce the law.

2.5.3 Fines and Penalties. The Transfer Station Committee, upon recommendation of the WTS Manager, may request the Board to assess penalties and/or fines against violators of any provision of this Ordinance, including the provision against littering, in accordance with the fines, penalties and sanctions set forth in Attachment B of this Ordinance. The Board shall support the Transfer Station Committee's findings unless the facts of a case, as presented, require other actions.

2.6 Swap Shop

2.6.1 Purpose. The Swap Shop shall facilitate recycling of items left at the Transfer Station.

2.6.2 Swap Shop Management. The management procedures and policies of the Swap Shop shall be developed and recommended by the Transfer Station Committee and reviewed and approved by the Board. Swap Shop management procedures and policies, if adopted by the Board, shall become an additional attachment to this Ordinance.

2.7 Composting

2.7.1 Composting Encouraged. This Ordinance encourages Permitted Users to compost on their own property.

- 2.7.2 Compostable Waste. Compostable Waste shall consist only of biodegradable plant materials. Compostable Waste does not include animal and human waste. Farmers and growers may use the manure of their farm animals for composting and fertilizing on their own property.
- 2.7.3 Composting Principles and Sites. Residents shall compost in accordance with reasonable composting techniques and principles, which prevent odors and do not attract vermin. Compost piles must not be a nuisance to neighbors, and must be sited unobtrusively and away from the view of the public and neighbors. Composting shall not pollute the Medomak River watershed or its wetlands or compromise the use of the Medomak River watershed and wetlands for clamming, fishing and other commercial and recreational use. All composting shall be done in accordance with best management practices and the Waldoboro Land Use Ordinance.
- 2.7.4 Composting at Transfer Station. The Board, upon recommendation of the Transfer Station Committee, may direct the establishment of composting areas at the Transfer Station. The Maine Department of Environmental Protection must approve such areas, and the rules for composting, if any, shall be the subject of an additional attachment to this Ordinance. The Transfer Station Committee shall determine the uses and/or disposition of Transfer Station compost.
- 2.8 Validity/Separability: If a court of law finds any part of this Ordinance to be unenforceable or contrary to existing laws, such finding shall not affect the legality or enforceability of any other part of this Ordinance.
- 2.9 Effective Date: This Ordinance shall take effect 30 days after Waldoboro and the Partners have approved the Amended and Re-stated Municipal Services Agreement in accordance with its terms. The Amended and Restated Municipal Services Agreement governs the relationships between Waldoboro and the Partners.

Approved June 12, 2012 by Town Meeting.

Craig Cooley

Steve Cartwright

Attest to all:

James Bodman

John A. Spear, Town Manager

Theodore Wooster

Carl Cunningham

Attest: A true copy as certified to me by the Municipal Officers of Waldoboro, Maine on July 24, 2012.

Linda E. Perry, Town Clerk

Town Seal

ATTACHMENT A

Decals and
Rules Concerning, and Descriptions and Disposition of,
Solid Waste
(Amended and Re-Stated as of January 12, 2016)

A1. Issuance of Transfer Station Decals and Temporary Permits (Pursuant to Sections 2.3.2 and 2.3.3 of the Ordinance)

A1.1. Decals and Decal Location. Permitted Users who are permanent Residents of their respective towns must obtain their decals from the WTS Manager at the Transfer Station after showing the WTS Manager their Maine driver's licenses and their automobile registration, both of which MUST show an address in one of the Transfer Station Partners. All decals the WTS Manager issues shall have written on them the license plate number of the vehicle to which they are affixed. Decals shall be affixed to the lower left corner of the vehicle's windshield. The decal shall permit the holder access to the Transfer Station and to the Landfill during its term of validity.

A1.2. Temporary Permit Applications and Placards for Part-time Residents and Others. People who are living part-time in one of the Partners or who are summer residents in one of the Partners or who are intending to become full-time residents of one of the Partners shall obtain temporary Transfer Station Permit Placards from their respective Partner town office. The Temporary Permit Placard shall allow the holder access to the Transfer Station and to the Landfill. The Transfer Station Committee may periodically determine the form of the Temporary Permit Placard. The Temporary Permit Placard shall be displayed on the dashboard of the driver's side of the vehicle. The Temporary Permit Application shall contain the following information:

A1.2.1. Applicant's name;

A1.2.2. Applicant's local address and phone number and permanent address and phone number;

A1.2.3. Year, make and license plate number of the applicant's vehicle;

A1.2.4. Date of issuance and date of expiration of the Temporary Permit;

A1.2.5. Evidence of part-time residency in one of the Partners

A1.2.6. Identity of the town office, which issued the temporary permit.

The Temporary Permit Placard shall state the owner's address, the license number of the vehicle, and the expiration date of the temporary permit.

A1.3. Construction and Demolition Debris Permit Applications and Placards.

The Transfer Station Committee may periodically determine the form of the Construction and Demolition Debris (CDD) Permit Application and Placard. The WTS Manager may issue blank CDD Permit Applications to Resident Businesses and to non-resident businesses performing services of a short-term duration for a Resident. Such businesses must have their Resident clients complete and sign the CDD Permit Application and provide a contact phone number so that the WTS Manager may verify the accuracy of the information the CDD Permit Application contains. The WTS Manager shall keep the completed and duly signed CDD Permit Application on file at the Transfer Station. The CDD Permit Application shall contain the following information:

- A1.3.1. Applicant's name ("Applicant" refers to the entity performing the CDD removal service);
- A1.3.2. Applicant's local address and phone number and permanent address and phone number;
- A1.3.3. Year, make and VIN of the applicant's vehicle;
- A1.3.4. Physical location and/or address of the Permitted User contracting the Applicant's services;
- A1.3.5. The nature and location of the work the applicant will perform for the Permitted User;
- A1.3.6. Date of issuance and date of expiration of the permit;
- A1.3.7. A statement that the permit allows for the disposal of no more than 30 cubic yards or an equivalent number of pounds of CDD per month; and
- A1.3.8. If applicable, the number of the vehicle operator's Maine State CDD Hauler's license, which is issued for vehicles with a Gross Vehicle Weight of more than 10,000 pounds.

Upon verification of the information contained in the CDD Permit Application, the WTS Manager, or his duly appointed alternate, shall issue a CDD Permit Placard, which must be displayed on the driver's side dash board of the vehicle named on the CDD Permit Application. The CDD Permit Placard shall state the Name of the vehicle's owner, the make of the vehicle, the License Number of the Vehicle, the issuance and expiration dates of the CDD permit, and an area where the WTS Manager can record the date and amount of each load of CDD deposited at the Transfer Station during the term of the project.

Attachment A: January 12, 2016

- A2. Issuance of Waldoboro Waste Hauler Licenses and License Placards (Pursuant to Section 2.3.6 of the Ordinance.)
- A2.1. Only the Tax Collector or the Tax Collector's designee is authorized, in consultation with the WTS Manager, to issue each Waste Hauler license and to collect the appropriate fee.
- A2.2. Waldoboro Waste Hauler license applicants must accompany their application with a valid Waste Hauler license from the State of Maine, Department of Environmental Protection, Bureau of Remediation & Waste Management if applicable to the Gross Vehicle Weight of the Waste Hauler's vehicle, and/or a certificate of liability insurance appropriate to the Gross Vehicle Weight of the vehicle. The certificate of insurance must name the Town of Waldoboro as an additional insured and contain a 30-day termination notification.
- A2.3. Each Waste Hauler must have its own Waste Hauler license.
- A2.4. Waste Haulers shall apply for new or renewal Waldoboro Waste Hauler licenses by June 1st of each year. If granted, Waldoboro Waste Hauler licenses shall be valid for one year commencing on July 1st.
- A2.5. Each Waste Hauler License Application shall contain the following information:
- A2.5.1. The name and address of the Waste Hauler
- A2.5.2. The Vehicle Identification Number(s) of the Waste Hauler's vehicle(s) and the vehicles' color(s), make(s), model(s), and Gross Vehicle Weight (s);
- A2.5.3. The Waste Hauler's address and phone number and the physical address of the vehicle parking location;
- A2.5.4. The effective and expiration dates of the Waldoboro Waste Hauler's license;
- A2.5.5. The name of the insurance company providing liability insurance for the vehicle(s), its owner, and its driver; and
- A2.5.6. Evidence that the vehicle is carrying a current inspection sticker
- A2.5.7. Evidence, satisfactory to the authorized Town of Waldoboro office employee(s) and the WTS Manager, that all of Waste Hauler's vehicles conform to the requirements of Section 2.3.6.2 of the Ordinance.
- A2.6. The Waste Hauler License Placard shall be issued on the basis of information contained in the approved Waste Hauler License Application and must contain the license plate number of the vehicle and the expiration date of the Waste Hauler License.
- A2.7. Renewal Licenses shall not be issued to Waste Haulers who have any outstanding invoices for fees and/or penalties the WTS Manager has assessed pursuant to this Ordinance.

- A3. Separation of Bulky Waste, Constructions Demolition Debris, Garbage or Trash, and Recyclables (Pursuant to Sections 1.3.2, 1.3.4, 1.3.12, 1.3.15, 2.3.1, 2.3.5.2 and 2.3.6.2 of the Ordinance)

Permitted Users shall convey their discarded Solid Waste and Universal Waste to the Transfer Station. Subject to Section A4, Waste Haulers shall convey to the Transfer Station all of the Solid Waste and Universal Waste with which their Partner customers have entrusted them. Permitted Users, including Waste Haulers, shall separate or shall ensure the separation of, their Recyclables, Garbage, Bulky Waste, Compostable Waste, Universal Waste, Unacceptable Waste and Construction and Demolition Debris. The goal of this Ordinance is to achieve the highest possible level of recycling in order to reduce the amounts the Partners pay to have their Solid Waste transferred out of the Transfer Station. The WTS Manager has established a minimum goal of 30% Recyclables by volume and 18% by weight as determined in accordance with Section B3 of this Ordinance. Only Garbage shall remain for deposit into the Transfer Station compactor after sorting and separation. All Solid Waste conveyed to the Transfer Station shall be deposited in accordance with the WTS Manager's directives, which shall be consistent with the purposes of this Ordinance.

- A4. Exceptions and Refusals (Section 2.3.5 of the Ordinance): The following Items are exceptions and refusals, as described below:

- A4.1. Solid Waste from which Recyclables have not been removed and which Waste Haulers have collected from public schools located in Waldoboro and/or in one of the Partners shall be deposited at the Transfer Station and the Permitted User depositing such Solid Waste shall pay the applicable dumping fee set forth in Section B.
- A4.2 Construction and Demolition Debris, which is intended for the Landfill and which is acceptable to legally sanctioned dumping areas outside of the boundaries of Waldoboro and the Partners need not be deposited. The intention of this exception is to extend the useful life of the Landfill.
- A4.3 Solid Waste, excluding Recyclables, which Waste Haulers collect from Residents and/ or Resident Businesses and discard at legally sanctioned dumping areas located outside of the boundaries of Waldoboro and the Partners need not be deposited, provided however that Recyclables not deposited at the Transfer Station shall be reported in accordance with Section A4.4 below.

- A4.4 Waste Haulers who collect Recyclables from within the boundaries of the Partners but deposit or sell them elsewhere shall submit a monthly report to the WTS Manager documenting the categories and weights or volumes of such undeposited and/or sold Recyclables. The Town of Waldoboro requires the information contained in the reports to fulfill Maine Department of Environmental Protection reporting requirements. Failure to submit the monthly reports shall constitute sufficient reason for the Board, upon recommendation of the Transfer Station Committee, to revoke the Waste Hauler's Waldoboro Waste Hauler License. The submission of monthly reports does not exempt Waste Haulers from paying the dumping fee set forth in Attachment B.
- A4.5. Refusals. The WTS Manager may refuse to allow the deposit of certain categories of Solid Waste in the event there is not sufficient space to accommodate them at the Transfer Station or in the event such categories of Solid Waste have not been separated in accordance with Section A3. Examples include items intended for the metal or the woodpiles, which have reached maximum capacity or the failure to separate mixed paper from corrugated cardboard.
- A5. Recyclables (Pursuant to Sections 1.2.11 and 2.3.1 of the Ordinance). Permitted Users shall separate their Recyclables into the categories set forth in this Section. The WTS Manager shall install legible signs at clearly designated disposal areas and on bins within the Transfer Station, subject to plans and traffic patterns the Transfer Station Committee recommends and the Board approves, to indicate acceptance of the following Recyclables:
- A5.1. Glass, colored and clear, thoroughly cleaned;
- A5.2. Porcelain, ceramic sinks, toilets, and tubs, porcelain bathroom fixtures, and ceramic cookware. Remove all covers and lids;
- A5.3. Cans and metal drums (tin, steel and aluminum) and foil pie plates, all with labels removed, all thoroughly cleaned and, if possible, crushed. The WTS Manager may only accept metal drums and cans if he or she is convinced that the drums and/or cans did not previously contain Unacceptable Waste;
- A5.4. Newspapers and magazines, including newspaper inserts, telephone books, catalogues, paperback or hardcover books, ~~phone books~~, and brochures. All must be clean and dry;
- A5.5. Mixed Paper including junk mail, clean cereal and food boxes, clean egg cartons, clean pizza boxes, computer paper, copier paper, paper bags, and colored paper. Mixed Paper DOES NOT include waxed paper or aseptic boxes, food, plastic, rubber bands, or used tissues and paper towels. Mixed Paper DOES include fluted (gable-end) juice, milk and similar food or drink cartons To help ensure personal privacy, this

Ordinance recommends that Permitted Users shred junk and personal mail and other mixed paper, which could contain confidential information.;

- A5.6. Corrugated cardboard, which must be cleaned of food waste and contain no solid Styrofoam or other packing materials. Waxed cardboard is unacceptable. (BAGGED Styrofoam and starch peanuts are put into the compactor);
 - A5.7. Plastic including containers Numbered 1 thru 7 (thoroughly rinsed with caps removed), plastic toys, and other plastic items. No. 2 plastics (HDPE) must be separated from other plastics, and No. 2 plastics must, themselves be separated into non-colored and colored; The Transfer Station does not recycle PVC PIPES, HOSES OR OTHER PVC ITEMS, all of which must be thrown into the Transfer Station Compactor or “hopper”; and
 - A5.8. Clean and empty plastic grocery store shopping bags and shrink-wrap.
- A6. Construction and Demolition Debris (CDD): (Sections 1.3.4 and 1.3.7 of the Ordinance) CDD shall be separated and deposited on the day pads the WTS Manager has designated for them.
- A6.1. Construction and Demolition Debris includes bricks, dirt, yard waste, asphalt shingles, broken wall board, sheetrock, blue board, pressure-treated wood, painted wood, untreated wood, wooden furniture, Structural Insulated Panels (SIPS), and insulation.
 - A6.2. Demolition lumber shall be cut into lengths of 8 feet or less and deposited onto the woodpile.
 - A6.3. All Construction and Demolition Debris shall be separated and deposited into the following separate areas, for each of which the WTS Manager shall set out clearly marked signs:
 - A6.3.1. Pressure-treated wood
 - A6.3.2. Wood furniture, painted wood and untreated or plain lumber;
 - A6.3.3. Plywood and Oriented Strand Board (OSB);
 - A6.3.4. Brick and cement blocks;
 - A6.3.5. Asphalt shingles, tarpaper, and other roofing underlayment; and
 - A6.3.6. Sheetrock, blue board, wallboard, and other similar materials;
 - A6.4. Batt and other insulation must be deposited into the compactor or “hopper”.
- A7. Bulky Waste. (Sections 1.3.2 and 1.3.15 of the Ordinance) Bulky Waste includes upholstered furniture, mattresses, rugs, carpets, carpet padding, drapes, box springs, ropes, cable, fencing, and appliances and the miscellaneous items listed below. All Bulky Waste shall be deposited as the WTS Manager directs. Fees, if applicable, are set forth in Attachment B. Bulky Waste includes:

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- A7.1. Plastic Pallets;
 - A7.2. Wooden Pallets, which, in the sole discretion of the WTS Manager, are suitable for recycling;
 - A7.3. Propane Tanks;
 - A7.4. Batteries. Any lead acid battery, including car, truck, motorcycle, and boat batteries, all of which the Transfer Station ships to a lead recycling center, and conventional and re-chargeable batteries of all kinds and sizes. including battery packs;
 - A7.5. Metal, including sheet metal items, which shall be cut or folded and flattened so that no dimension exceeds four (4) feet; iron, steel, aluminum, copper, and brass, all separated by type of material; wire and cable; and metal furniture. The WTS Manager may allow in his sole discretion empty fuel tanks of any kind (with mercury switches removed), catalytic converters, and small auto parts and tire rims;
 - A7.6. Tires with rims removed. Residents may deposit their tires at the Transfer Station. Commercial tire sellers and/or changers may not bring their tires to the Transfer Station;
 - A7.7. Appliances. Refrigerators and freezers must have all doors removed before their arrival at the Transfer Station. Transfer Station personnel shall arrange to remove Freon gas, if any, from all appliances, including air conditioners. Washers, dryers, cookers, ranges, stoves, and water heaters, whether gas or electric, need not be disassembled prior to their being placed in the designated Transfer Station area;
 - A7.8. Ashes from all stoves, whether hot or cold, shall be placed in drums or barrels located at the Transfer Station;
 - A7.9. Waste Oil and Anti-Freeze. The Transfer Station will charge a fee to accept waste engine oil and anti-freeze in containers not exceeding 5 gallons. One-gallon containers are preferred. No water, gasoline, or antifreeze may be in the oil and no oil, or gasoline may be in the anti-freeze. The disposal charge for waste oil may be avoided by taking the waste oil to someone who burns waste oil. The Transfer Station has a list of people who burn waste oil and will accept it from Residents;
 - A7.10. Brush, including Christmas Trees. Tree limbs, and branches must be cut into lengths of not more than 8 feet for chipping;
 - A7.11. Vinyl siding, not more than 5 feet in length; and
 - A7.12. Animal feces from domestic pets, which should be bagged and put into the hopper.
- A8. Universal Waste (Pursuant to Section 1.3.21 of the Ordinance) shall be deposited in the areas the WTS Manager designates. Universal Waste includes:
- A8.1. Portable Radios;
 - A8.2. Cell Phones and home phones;

Attachment A: January 12, 2016

- A8.3. Laptop and desktop computers and servers
 - A8.4. Televisions;
 - A8.5. Speakers, amplifiers, tape decks, CD players, and video games;
 - A8.6. Compact fluorescent energy saver light bulbs (CFLs);
 - A8.7. Any and all other electronic equipment, of which the WTS Manager approves;
 - A8.8. Mercury;
 - A8.9. Freon; and
 - A8.10. Freon Replacement.
- A9. Garbage or Trash (Pursuant to Sections 1.3.6, 1.3.15, and 2.3.4 of the Ordinance). Solid Waste that is Garbage or Trash (including properly bagged feces from household pets) must be in plastic bags or other suitable containment for disposal into the Transfer Station compactor. Bagged Garbage or Trash must not contain Recyclables, Universal Waste, Construction Demolition Debris, Unacceptable Waste, Bulky Waste or any other items, which cannot be considered Garbage or Trash.
- A10. Compostable Waste (Pursuant to Section 2.7 of the Ordinance). The Transfer Station accepts Compostable Waste under a pilot program with Lincoln County Recycling.
- A11. Prescription and Over-the-Counter Medicines (Pursuant to Section 2.3.1 of the Ordinance). Prescription and over-the-counter medicines includes pills, capsules, salves, medicinal ointments, and other similar items. The ultimate destination for discarded medicines is the incinerator at the Penobscot Energy Recovery Company, which incinerates them at extremely high temperatures. All such substances should NOT be flushed down a toilet, buried, or disposed of in ways that could expose them to others. The best disposal method is to remove the item from its container and to mix the discarded item with household pet feces, garbage, or other substances that make it clear it is not intended for human consumption. The mixed items should then be placed in a bag and disposed of as Garbage at the Transfer Station.
- A12. Unacceptable Waste (Pursuant to Section 1.3.20 of the Ordinance). The Transfer Station shall not accept the following types of waste. All Permitted Users must consult with the WTS Manager regarding the proper disposal of Unacceptable Waste.
- A12.1. Any Solid Waste or substance, whatever the amount, which the Federal Environmental Protection Agency classifies as "Hazardous" or "special";
 - A12.2. Dead animals or other pathological waste;
 - A12.3. Truckload lots of tires;
 - A12.4. Commercial Shellfish waste;

Attachment A: January 12, 2016

- A12.5. Junk vehicles or parts, including electric car batteries, which are to be left with the car dealer. They are not accepted at the Transfer Station.
- A12.6. Septage, septage treatment waste, septic tank waste, farm animal feces (manure), and sludge from wastewater treatment plants;
- A12.7. Asbestos shingles, siding and flooring;
- A12.8 Bituminous Pavement (Asphalt Paving) and Concrete; or
- A12.9. Waste which does not meet the requirements of Section 2.3 of the Ordinance.

ATTACHMENT B

Fee Schedule

Fines, Penalties and Sanctions

(Amended and Re-Stated as of March 26, 2014)

Approved by the Waldoboro Board of Selectmen April 22, 2014

B1. Annual Permit, License and Decal Fees (Pursuant to Sections 2.3.3 and 2.3.6.1 of the Ordinance and A1)

- B1.1. Annual Permitted User Decal Fee (Attachment A1): No Fee
- B1.2. Temporary Permit Fee for Part-time Residents and Others: No Fee (Attachment A1)
- B1.3. CDD Permit (Attachment A1): No Fee
- B1.4. Annual Waste Hauler License Fee: \$25 per license (Attachment A2)

B2. Fees for Bulky Waste and Construction and Demolition Debris (Pursuant to Section 2.3.9 of the Ordinance):

- | | | |
|-------|--|--------------------|
| B2.1. | Antifreeze (per gallon) | \$1.00 |
| B2.2. | Appliances/White Goods | |
| | Appliances not requiring Refrigerant for normal Operation | \$3.00 per unit |
| | Appliances with Refrigerant Or which had Refrigerant | \$10.00 per unit |
| | Hot Water Tanks | \$5.00 per unit |
| | Pressure Tanks (only if <u>not</u> pressurized) | No charge |
| B2.3. | Batteries | |
| | Car and Marine Batteries | \$2.00 per battery |
| | AA, AAA and other Batteries | No Charge |
| | Rechargeable batteries for tools and appliances, including lithium | |
| | Gel motorcycle batteries, inverters | No Charge |
| B2.4. | Electric car batteries are to be left with the car dealer. They are not accepted at the Transfer Station. | |
| B2.5. | Construction and Demolition Debris: Permitted Users, including Waste Haulers, must obtain a CDD Permit to dump CDD at the Transfer Station. (Please see Section A1.3.) During a given month, the permit allows the dumping of no more than 30 cubic yards of CDD or the equivalent | |

tonnages of CDD for the categories indicated below. For purposes of this Ordinance, The Transfer Station considers one load from a pick-up with a 6-foot bed to be one (1) cubic yard.

Less than 1 cubic yard	\$10.00
1 to 4 cubic yards	\$15.00 per cubic yard
4+ to 8 cubic yards	\$30.00 per cubic yard
8+ cubic yards	\$40.00 per cubic yard
If by weight	There will be a per pound charge after the installation of scales

Note: The Transfer Station does not accept asphalt paving or concrete.
See Section A12.8

B2.6.	Fluorescent Light Ballasts/Transformers	\$1.25 each
B2.7.	Mattress or box spring - single	\$5.00 each/\$10 set
	Queen or Larger	\$10.00 each/\$20 set
B2.8.	Motor Oil	\$0.50 per gallon
B2.9.	Paint and paint thinner/turpentine	\$0.50 per gallon
B3.9.1.	There is no disposal fee for Latex paint, mixed with sawdust or cat litter. The mixture shall be dumped into the Transfer Station compactor.	
B3.9.2.	Oil-Based Paint, No more than 5 gallons at one time	
		\$8.00 per gallon
B2.10.	Scrap Metal	\$5.00 per cubic yd or \$0.02 per lb
B2.11.	Universal Waste: Televisions/CRTs/Servers, Laptops and desktop Computers, CFL's Portable Electronic Equip.	No charge, subject to changes in State of Maine mandates
	TV's and Computer Monitors	\$5.00 each
B2.12.	Tires (Permitted Users are encouraged to leave used tires at the service garage or auto dealer)	
	Auto, w/out rims	\$2.00 per tire
	Auto, with rims	Not accepted
	Truck Tires w/out rims 20" or smaller	\$ 5.00 per tire
	Tires greater than 20"	
	without rims must be cut into three pieces	\$9.00 per tire
	Tires greater than 20" With rims	Not accepted
B2.13.	Clean Wood and Brush	\$5.00 / cubic yd/\$0.03/lb
	Shingles & Sheet Rock	\$15.00 / cubic yd/\$0.09/lb
	Demolition Wood including Pressure Treated and Painted Wood, OSB, Plywood, and Other Wood* \$10.00 / cubic yd/\$0.06/lb	

*("Other wood" includes painted wood, stained wood, pressure treated wood, plywood, OSB, and particle board, all of which are to be put into the wood pile to be ground up and disposed of either into the Landfill or by other means)

B2.14 Payment of Bulky Waste and CDD Fees. Permitted Users shall pay the Bulky Waste and CDD fees charged pursuant to this section in accordance with the WTS Manager's instructions. All Bulky Waste and CDD fees shall be deposited into the Transfer Station Special Revenue Fund and used to offset Transfer Station expenditures.

B3. Dumping Fees and Payment (Pursuant to Sections 2.3.5, 2.3.4, and 2.3.6)

B3.1 Discretionary Authority. This Ordinance requires Permitted Users to deposit all of their **discarded** and appropriately separated Recyclables at the Transfer Station. This requirement extends to Waste Haulers, who must deposit all of their collected and appropriately separated Recyclables at the Transfer Station or report them to the WTS Manager in accordance with Section A4.4. Until such time as the Transfer Station has scales, this Ordinance gives the Transfer Station employees discretionary authority reasonably to estimate whether the volume of Recyclables that Permitted Users deposit into the Transfer Station Compactor are meeting recycling goals. –Transfer Station employees must exercise their discretionary authority fairly to all Permitted Users.

B3.2 Measuring Volumes of Garbage (G), Recyclables (R) and Percentage of Recyclables (%R).

B3.2.1 Remove all Bulky Waste, CDD, Universal Waste and other Solid Waste that is not Recyclables and Garbage and assess the appropriate fee against the Solid Waste that is not Recyclables and/or Garbage

B3.2.2 Measure to estimate (or weigh) the aggregate volume of the remaining Garbage and Recyclables

B3.2.3 Remove the Recyclables (R)

B3.2.4 Measure to estimate (or weigh) the volume of the Garbage that remains (G)

B3.2.5 Calculate R as: $(R+G) - G$ (Recyclables equal Recyclables plus Garbage minus Garbage).

B3.3 Calculation of Recyclables Percentage (%R)

B3.3.1 %R for Truckloads of deposited Solid Waste: The Recyclables Percentage of each truckload of Solid Waste delivered to the Transfer Station shall be calculated as follows:

$\%R = R/(G+R)$ (Percentage of Recyclables equals Recyclables divided by the sum of Garbage and Recyclables)

Example: $G + R = 150$ cubic Yards
 $R = 50$ Cubic Yards
 $G = 100$ Cubic Yards
 $\%R = 50/(100 + 50) = 33.3\%$

B3.3.2 $\%R$ for Solid Waste deposited by the Bag: For every three 30-gallon bags or every three contractor bags Transfer Station employees shall estimate $\%R$ on the basis that two of the three deposited bags shall contain Garbage and one of the three deposited bags shall contain appropriately sorted Recyclables.

B3.4 Minimum $\%R$. The WTS Manager has determined in his sole discretion that Permitted Users must deposit a $\%R$ of not less than 30% (Minimum $\%R$) for purposes of determining dumping fees and in order to ensure the purposes of this Ordinance as set forth in Article 1.2 are achieved.

B3.5 Dumping Fees for Permitted Users Who do NOT Recycle.

B3.5.1 Permitted Users who do not separate Recyclables for deposit at the Transfer Station as required by this Ordinance or who do not recycle in accordance with the requirements of this Ordinance shall pay the following dumping fees for all materials deposited into the Transfer Station compactor. Transfer Station staff shall determine, in their sole discretion, which of the following fees shall apply to the material deposited into the Transfer Station compactor:

\$0.06 per pound or
\$13.50 per uncompacted cubic yard or
\$35.00 per compacted cubic yard or
\$0.60 per 30-gallon bag or
\$1.20 per contractor bag

B3.5.2 For purposes of this Section, Permitted Users who do not deposit Recyclables at the Transfer Station on the same day that they deposit Garbage shall be deemed not to be recycling for that day. All such deposited materials shall be deemed to be unseparated materials. Transfer Station employees shall record the volume or weight of the unseparated materials placed into the Transfer Station hopper and shall report the amount to the Town Office for billing. Permitted Users who do not have billing accounts at the Transfer

Station shall pay by cash or check prior to dumping at the applicable dumping fee, as determined in the sole discretion of the Transfer Station staff.

B3.5.3 Mixture of Compacted and Uncompacted Trash. The Transfer Station employees shall be the sole determiners of whether materials deposited into the Transfer Station Compactor are compacted or uncompacted or a pro-ratable mixture of the two. Dumping fees for the relative portions uncompacted and compacted materials shall be assessed in accordance with Section B3.5.1.

B3.6 Dumping Fees for Waste Haulers Who do NOT deposit the Minimum %R.

B3.6.1 For Waste Haulers, monthly %R shall be calculated in accordance with Section B.3.2 for each day of the calendar month that R is deposited at the Transfer Station.

B3.6.2 The monthly shortfall of R, if any, shall be calculated as follows:

(a) Calculate %R

Example: Sum of G = 255 cubic yards
Sum of R = 43 cubic yards
G + R = 298 cubic yards
 $\%R = 43/298 = 14.43\%$, which is less than 30%

(b) Calculate Shortfall based upon the example

$30\% (G + R) = .3(298) = 89.4$ Cubic Yards
Shortfall = 89.4 cubic yards minus 43 cubic yards = 46.4 cubic yards

In this example, assuming the Shortfall is uncompacted, it is billable at the rate of \$13.50 per uncompacted cubic yard. The billable amount would be \$626.40.

B3.7 Solid Waste from Public Schools

With reference to A4.1, Solid Waste, which has been collected from public schools located in Waldoboro or one of the Partners and from which Recyclables, Garbage, CDD, Universal Waste, and Bulky Waste have not been properly separated and/or sorted may, if permitted in the sole discretion of the Transfer Station Employees, be deposited at the Transfer Station. Such deposits of Solid Waste shall incur the dumping fees for each appropriate category of Solid Waste set forth in this Attachment B.

B.4 Complaints (Section 2.4.1.4). All complaints resulting from non-compliance with, or lack of understanding concerning, this Ordinance shall be directed, first, to the WTS Manager and, if necessary thereafter, to the Transfer Station Committee. All complaints to the Transfer Station Committee must be in writing on the Complaint Forms available at the Waldoboro Town Office.

B5. Violations of this Ordinance (Pursuant to Sections 2.3.5.2, 2.3.5.4, 2.3.6.2, 2.3.6.4, and 2.3.6.8)

B5.1. Enforcement for Littering (Sections 2.3.5.4 and 2.5.3 of the Ordinance). Anybody caught littering will be prosecuted.

B5.2. Solid Waste and Health (Section 2.1 of the Ordinance). The Waldoboro Code Enforcement Officer shall investigate any waste-related problem brought to his or her attention and shall call for police assistance if the Code Enforcement Officer believes such assistance is warranted.

B5.2.1. Removal of Solid Waste for Health Reasons. The Waldoboro Code Enforcement Officer shall serve a notice of violation to any Resident or property owner found to be accumulating Solid Waste or Unacceptable Materials, which the Waldoboro Code Enforcement Officer deems to be injurious to ~~the~~ public health ~~and~~ or safety. The Solid Waste or Unacceptable Materials must be removed and properly disposed of promptly upon service of the notice. If the offending Solid Waste or Unacceptable Waste has not been removed, the Waldoboro Code Enforcement Officer shall, upon the consent of the property owner or Resident, arrange for the removal of the waste and shall bill the offending party for all removal costs. If consent is not given to remove the waste, or if removal costs are not timely paid, the Board may pursue court or other legal action to provide for the removal of the Solid Waste and/or Unacceptable Waste and/or to collect removal costs.

B5.2.2. Multi-Family Properties or Rented or Leased Properties. Owners of multi-family, ~~or~~ rented, or leased properties must provide a location for the storage of Solid Waste until a Waste Hauler or other person removes it and lawfully disposes of it. Proper storage does not include hallways or the interiors of tenants' living quarters or common public areas, whether located inside or outside. Proper storage does include garages, outside storage sheds, covered dumpsters, and covered waste receptacles. Owners of multi-family dwellings, ~~or~~ rented, or leased properties

may allow tenants to dispose of their Solid Waste at the Transfer Station, however the property owner must provide a location for the storage of such Solid Waste until such time as it is removed for disposal. Failure to provide and/or use proper storage shall constitute just cause for the Waldoboro Code Enforcement Officer to follow the procedures set forth in this Section B6. The owner of the multi-family dwelling, or rented, or leased-property shall be subject to the same procedures if the tenant does not dispose of his or her Solid Waste in a timely manner.

B5.3. Other Fines and Sanctions.

B5.3.1. Inappropriate Use of Transfer Station and/or Landfill (Pursuant to Section 2.3.1, 2.3.2, 2.3.4 and 2.3.5.3 of the Ordinance). Any Resident, Resident Business, Permitted User or any other person or entity throwing unacceptable materials into the Transfer Station compactor or Landfill or otherwise inappropriately disposing of Solid Waste at the Transfer Station or the Landfill or failing to recycle and/or separate Recyclables as required by this Ordinance shall be penalized as follows:

First Offense: Verbal Warning.

Second Offense: Written Warning from the WTS Manager.

Third Offense: A Fine of \$250.00. Failure to pay the fine shall constitute a civil violation. The Transfer Station may recommend to the Board, and the Board may instruct the Waldoboro Town Manager to pursue court action to recover fines not paid within 30 days.

Fourth Offense: Suspension or revocation of rights to use the Transfer Station and Landfill. The Transfer Station Committee shall hold a public hearing to determine the facts. If the facts warrant, the Transfer Station Committee may, in its sole discretion, issue a warning or suspend or revoke the offending user's rights to use the Transfer Station and/or Landfill.

B5.3.2. Workplace Violence/Unacceptable Behavior (Pursuant to Sections 2.5.2 and 2.5.3). The Town of Waldoboro is responsible to provide a safe work environment for its employees. Workplace violence shall be deemed to constitute a threat to the personal safety, security and well being of all Transfer Station employees and to the smooth and efficient operation of the Transfer Station. Workplace violence includes, but not be limited to, foul language, threats, threatening behavior, taunting, bullying, verbal abuse, an intimidating presence, harassment of any nature such as being

sworn at or shouted at, and any physical assault. For purposes of this Ordinance, workplace violence shall also be defined as the failure of any Permitted User to follow the directives or instructions of any Transfer Station employee. Any Transfer Station employee whose directives or instructions are not followed or who is subjected to workplace violence as herein defined shall immediately take steps to protect himself and the other Transfer Station employees and to report such behavior to the WTS Manager and to the police. The WTS Manager shall immediately submit a written complaint to the Town Manager, to the Chairman of the Transfer Station Committee and to the union representing the employee, if applicable. The complaint shall describe the act of workplace violence, indentifying the time, place, and nature of the incident, any witnesses and the identity of the person responsible. The responsibility for resolving issues of workplace violence shall lie with the Waldoboro Town Manager, the WTS Manager, the affected employee, and the person accused. The WTS Manager shall notify the Transfer Station Committee in writing of the terms of the resolution. The Transfer Station Committee's only role after receiving such written notification shall be to conduct a public hearing to determine, by majority vote, whether or not the person's right to use the Transfer Station should be continued, suspended or revoked. The Transfer Station Committee's decision shall be final and must be provided within 15 days of the Transfer Station Committee's receipt of the WTS Manager's notification.

B5.3.3. Penalties and Fines. (Pursuant to Section 2.5.3) Permitted Users who fail to abide by any term of the Ordinance, including failure to pay any fees when due, shall be subject to the following penalty and, where applicable, shall pay the following fine:

B5.3.3.1. Penalty. Loss of right to use the Transfer Station. Revocation shall occur only after a hearing before the Transfer Station Committee to determine the facts and the reasonableness of the penalty in light of the facts.

B5.3.3.2. Failure to Cover Loads: \$250.00 for each offense.

B5.4. Deposit of Fines. All fines shall be payable to the "Town of Waldoboro". The Waldoboro Tax Collector or Finance Director shall deposit all fine proceeds into the Transfer Station fund.

Certification of Municipal Officers

Craig Cooley

Ronald Miller

James Bodman

Attest to all:

Linda-Jean Briggs, Town Manager

Theodore Wooster

Carl Cunningham

Attest: A true copy as certified to me by the Municipal Officers of Waldoboro, Maine on April 8, 2014.

Linda E. Perry, Town Clerk

Town Seal

AMENDED AND RESTATED
WALDOBORO/FRIENDSHIP/CUSHING
MUNICIPAL SERVICES AGREEMENT
FOR SOLID WASTE DISPOSAL FACILITIES

This amended and restated Municipal Services Agreement is made and entered into on the SIXTEENTH day of AUGUST, 2012 by and among the Inhabitants of the Towns of Waldoboro, Friendship, and Cushing, each of which is a municipal corporation organized under the laws of the State of Maine.

WHEREAS Waldoboro, Cushing and Friendship made and entered into a Municipal Services Agreement dated January 24, 1989; and

WHEREAS Section 8.3 of the Municipal Services Agreement permits the parties to amend it with the approval of their respective legislative bodies and a majority of their municipal officers; and

WHEREAS Waldoboro, Cushing and Friendship wish to amend and restate the Municipal Services Agreement pursuant to the terms of this Amended and Restated Waldoboro/Friendship/Cushing Municipal Services Agreement; and

WHEREAS Waldoboro, Cushing and Friendship have determined that entering into this Agreement will continue to facilitate a more efficient use of their resources and will be to their mutual advantage;

NOW THEREFORE, the Towns of Waldoboro, Cushing and Friendship, jointly and severally, for and in consideration of the mutual promises and agreements hereinafter stated and of the performance of those promises and agreements, do hereby promise and agree as follows:

1. **PURPOSE:** This Agreement provides for the disposal at the Waldoboro Solid Waste Transfer Station and Inert Landfill of Solid Wastes generated within Waldoboro, Friendship and Cushing.

2. **DEFINITIONS:** Terms defined in the Waldoboro Solid Waste Disposal and Required Recycling Ordinance (the "Waldoboro Ordinance") dated AUGUST 16, 2012 have the same meaning when used in this Agreement. The Waldoboro Ordinance is attached to this Agreement for reference purposes, only.

3. **ORGANIZATION AND ADMINISTRATION**

3.1. **Administration:** Waldoboro shall administer this Agreement in full and continuous consultation with the Transfer Station Committee and the Select Boards of each of the Partners.

3.2. **Responsibilities of the Partners:**

3.2.1. Solid Waste Disposal. Permitted Users of the Partners shall dispose of all

of their Solid Waste under the terms and conditions of this Agreement and the Waldoboro Ordinance.

3.2.2. Transfer Station. Waldoboro, shall own, construct, operate, manage, maintain, repair, replace, and finance the Transfer Station and Landfill and shall obtain and keep current all necessary permits from the Maine Department of Environmental Protection. Waldoboro shall purchase or lease and maintain the necessary equipment; employ Transfer Station personnel; engage haulers; pay tipping fees; and do all other things that are incidental to or necessary for the operation of the Transfer Station.

3.2.3. Landfill. Waldoboro may, from time-to-time, construct, maintain, and de-commission Landfills to accommodate Demolition Debris. Such Landfills shall be located within Waldoboro or, with the consent of the select board and legislative body of the respective town, within one of the Partners. Alternatively, Waldoboro, instead of placing Construction and Demolition Debris in the Landfill, may on behalf of itself and the Partners and upon recommendation of the Transfer Station Committee, arrange and pay for its transport and lawful disposal to an alternative location.

3.2.4. Recycling Programs. Waldoboro may, in accordance with the terms of the Waldoboro Ordinance, implement recycling programs, which require the separation of Recyclables from other Solid Waste. All Permitted Users shall be required to participate in such recycling programs.

3.3. **Transfer Station Committee:** The Waldoboro Ordinance establishes a Transfer Station Committee, which shall hold monthly public meetings at the Waldoboro Town Office. The purpose of the Committee is to ensure close cooperation among Waldoboro and the Partners concerning the affairs of the Transfer Station Committee, the Transfer Station, the Landfill, Penobscot Energy Recovery Corporation (PERC), and the Municipal Review Committee (MRC). The responsibilities of the Committee are set forth in the Waldoboro Ordinance. Waldoboro and the Partners hereby commit to appoint their members to the Committee and to participate fully and at all times in the meetings and affairs and responsibilities of the Committee.

3.4. **Use of the Transfer Station and Landfill:** The Waldoboro Ordinance, as it or its Attachments may be amended from time-to-time, sets forth the rules and regulations governing the use of the Transfer Station and the Landfill. The Ordinance contains procedures by which Permitted Users who do not abide by the terms of the Ordinance may have their Transfer Station privileges suspended or revoked.

4. **FINANCE OF THE TRANSFER STATION AND LANDFILL**

4.1. **Allocation and Funding of Capital and Operating Costs**

4.1.1. Cost Allocations. Waldoboro shall pay for equipment acquisitions, improvements, operations, maintenance, repairs, administration, and all incidental items related to operation of the Transfer Station and Landfill. As of the beginning of each Waldoboro budget year, the Waldoboro Select Board shall allocate the total of the foregoing costs among the Partners pro rata in accordance with the proportion each Partner's population holds to the aggregate of the populations of the Partners. The calculations of the cost sharing percentages are set forth in Attachment I to this Agreement. The Transfer Station Committee shall update Attachment I every ten years or more often as it deems appropriate in light of prevailing population growth patterns, using United States Census Data in combination with annually up-dated local Partner and Waldoboro records.

4.1.2. Calculation and Estimate of Budgeted Costs. The Waldoboro Town Manager or his or her designee shall provide a written estimate to each Partner of its respective budgeted cost prior to the last day of January of each year, during Waldoboro's budget preparation season. The budgeted cost estimates shall be regarded as such and each Partner may use them for its own budgeting purposes. Waldoboro shall bill each Partner monthly in accordance with Section 4.2c, below.

4.1.3. Funding. Each Partner shall fund its budgeted costs in its own way, as determined by its respective select board or its legislative body. The failure of any Partner to appropriate sufficient funds to pay for the total amount billed for operating costs for a particular fiscal year shall not excuse the Partner from the responsibility to pay for its respective share of the costs in accordance with this Agreement.

4.2. **Financial Controls and Procedures:** Waldoboro shall account for all financial transactions relating to this Agreement and shall ensure:

4.2.1. The payment for operations, services and capital purchases, including but not limited to tipping fees, transportation costs, landfill services, recycling services, auditing costs, insurance costs, and all incidental costs;

4.2.2. The preparation of financial reports for the Transfer Station Committee, which shall be generated as a part of Waldoboro's budgeting process and on-going town operations;

- 4.2.3. The preparation of monthly billing statements for each Partner, which shall show budgeted costs, their method of determination and the amounts due and payable to Waldoboro. Waldoboro shall make the monthly billing statements available to the Partners no later than 5 days after the last day of each calendar month. Except as noted in Section 4.6 below, each Partner shall make 12 monthly payments in accordance with the Waldoboro's bills. Payments are due no later than the 10th day of each calendar month.
- 4.2.4. The completion of an annual audit of transactions relating to this Agreement and the issuance of an auditor's opinion concerning the fair and accurate presentation of the related transactions and the nature of the controls in place. The annual audit for purposes of this Agreement shall be included in the scope of work Waldoboro provides to its auditors each year for Waldoboro's annual audit. Waldoboro will provide a copy of the audit to the Partners.
- 4.3. **Transfer Station and Landfill Budgets:** Waldoboro's Town Manager shall provide copies of the initial Transfer Station/Landfill Budget for each succeeding fiscal year as soon as it has been drafted in a reasonably final form, subject to consultations between the Transfer Station Committee and Waldoboro's Town Manager. The form of Waldoboro's Transfer Station Budget, with each line item it contains, is set forth substantially in the form of Attachment II. The Transfer Station Committee may recommend changes to Attachment II, and the Waldoboro Select Board may accept such recommendations in its sole discretion after consulting with the Waldoboro Town Manager, the Finance Director, and the Select Board Chairmen of each of the other Partners. The Waldoboro Select Board Chairman shall immediately inform each of the other Partners of any changes to Attachment II.
- 4.4. **Fiscal Year of the Transfer Station and Landfill:** The fiscal year of the Transfer Station shall coincide with Waldoboro's fiscal year.
- 4.5. **Guaranteed Annual Tonnage (GAT) Shortfall Penalty:** In the event PERC assesses a GAT shortfall penalty, each Partner's share of the assessment shall be calculated using the percentages set forth in Attachment I. Partners shall pay their share of the assessed GAT penalty to Waldoboro within 30 days of receiving Waldoboro's bill. If the Waldoboro Town Manager is aware of an impending GAT shortage, he or she shall consult timely with the Transfer Station Committee and the Select Boards of the Partners.
5. **TRANSFER STATION AND LANDFILL ASSETS: REAL AND PERSONAL PROPERTY:** Waldoboro shall manage and control all real, intangible and personal Transfer Station and Landfill property. For physical assets, Waldoboro shall maintain an accounting, by

asset (grouped appropriately), of the date of purchase, serial number (where applicable), date put into service, and estimated useful life, with an indication of the expected year of replacement. All developments and subsequent improvements shall remain under the ownership of Waldoboro. Any and all assets remaining at the time this Agreement is either terminated or not renewed or not succeeded by another agreement shall remain the property of Waldoboro. Notwithstanding the foregoing, Waldoboro shall return to each Partner that Partner's proportionate share of funds remaining in any reserve accounts except the Landfill Closing Reserve Account. Landfill Closing Reserve Account funds shall remain the property of Waldoboro and shall be used for their intended purpose.

6. **TRANSFER STATION PERSONNEL:**

- 6.1. **Personnel are Waldoboro Employees:** Waldoboro shall employ whomever it deems necessary to operate the Transfer Station, the Landfill and this Agreement. All such employees shall be employees of the Town of Waldoboro and subject only to Waldoboro's direction. The Town of Waldoboro shall be solely responsible for compliance with all federal and state laws and regulations related to the Transfer Station and Landfill employees.
- 6.2. **Compensation:** Waldoboro shall determine the compensation and benefits for its Transfer Station and Landfill employees.
- 6.3. **Rules Pertaining to Transfer Station Personnel:** Waldoboro shall establish rules and regulations, which govern its employees in the performance and evaluation of their duties, including job descriptions and grievance procedures. The Transfer Station Committee shall review and recommend Transfer Station and Landfill-related job descriptions to the Waldoboro Select Board, which shall have sole and final authority to approve them.

7. **REMEDIES:**

- 7.1. **Breaches and Default:** In the event one of the Partners shall fail to perform any of its obligations under this Agreement, including the timely payment of monies due and owing, the Transfer Station Committee or the Select Board of the Town of Waldoboro may give notice by registered mail that such Partner is in breach. The notice shall provide up to 30 days from the date of the notice for the party in breach to remedy it. If the breach is not remedied within the period stated in the notice, the Transfer Station Committee or the Waldoboro Select Board may declare the Partner who breached this Agreement to be in default and, upon consultation with the Boards of Selectmen of the remaining Partner(s), immediately take steps to assert the rights of the remaining Partner(s). The Town of Waldoboro Board of Selectmen shall direct any legal action authorized, and may pursue any remedy available at law for the breach of this Agreement.

Upon agreement of the Town of Waldoboro Board of Selectmen and the Partner accused of breach, questions regarding any claimed breach may be submitted to binding arbitration.

7.2. Withdrawal from this Agreement: A Partner may withdraw from this Agreement subject to the following provisions:

- 7.2.1. The withdrawing Partner must give written notice of its intent to withdraw no less than six months prior to the end of the Transfer Station's fiscal year.
- 7.2.2. In the event a Partner withdraws from this Agreement without giving sufficient notice as set forth above, the withdrawing Partner shall pay the Town of Waldoboro a withdrawal penalty equal to its calculated share of six months' of estimated operating costs, which shall commence accruing on the effective date of withdrawal.
- 7.2.3. Waldoboro shall pay to the withdrawing Partner the share of cumulative balances held in Transfer Station and Landfill reserve accounts that is attributable to the withdrawing Partner, provided however, that Waldoboro may use such amounts to offset against any withdrawal penalties due from the withdrawing Partner pursuant to Section 7.2b of this Agreement and/or any monthly payments for operating costs that remain due and owing as of the date of withdrawal. Waldoboro shall not be obligated to refund any balances held in the Landfill Closing Reserve and such balances shall not be deemed to constitute payment of any withdrawal penalties that may be due.
- 7.2.4. In the event Waldoboro withdraws from this Agreement, Waldoboro must give 12 months advance written notice to the Partners. Waldoboro's withdrawal must take effect on the last day of Waldoboro's fiscal year.
- 7.2.5. The withdrawal of Waldoboro or a Partner shall not excuse Waldoboro or the Partner from paying its share of any costs or liabilities accrued prior to the effective date of withdrawal.

7.3. Indemnifications and Insurance:

- 7.3.1. Indemnification. The Partners shall deem any damages, losses, costs, expenses, or adjudicated claims, including legal costs, arising from the performance by any party or its agents, employees, officers, or officials of

his, her or their duties under this Agreement to be operational budgetary expenses pursuant to Section 4.3, and said costs shall be indemnified from Waldoboro's Transfer Station and Landfill Budget and apportioned in accordance with Attachment I. If such damages, losses, costs, expenses or adjudicated claims are the result of gross misconduct or gross negligence on the part of one or more Partners, such damages, losses, costs, expenses or adjudicated claims shall not be considered as an operational budgetary expense, shall not be indemnified and shall be the sole responsibility of the Partner(s) deemed by a court of law to be at fault. This indemnification shall survive the term of this Agreement and the withdrawal of any Partner from this Agreement, as related to claims arising from events or occurrences that took place during the effective period of this Agreement.

7.3.2. Insurance. Waldoboro shall provide, at its expense, general liability insurance and asset coverage for its normal town operations which include the operation of the Transfer Station and Landfill and coverages for gross misconduct and gross negligence, if available, provided however that the Partners shall share any incremental insurance costs directly attributable to the Transfer Station and Landfill in accordance with Attachment I.

8. **ADOPTION, AMENDMENT**

8.1. **Duration:** This Agreement shall continue in full force and effect until the termination of the disposal agreement with PERC or until the Town of Waldoboro or more than one other Partner withdraws from the Agreement pursuant to Section 7.2.

8.2. **Adoption:** This Agreement shall take effect upon completion of the following:

8.2.1. The Town of Waldoboro's approval of the Waldoboro Solid Waste Disposal and Required Recycling Ordinance, and

8.2.2. approval of this Agreement by the legislative bodies of all of the Partners.

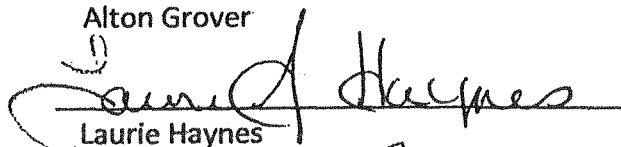
8.3. **Amendment and Additional Parties:** Waldoboro and The Partners may amend this Agreement in the manner set forth in Section 8.2b. Waldoboro may admit additional parties to this Agreement subject to (i) the appropriate restatement of the Attachment I percentages and (ii) any necessary amendments to this Agreement approved in accordance with Section 8.2,

In witness whereof Waldoboro and the Partners, through their respective Select Boards, have executed this Agreement on this TWENTY FOURTH day of July, 2012.

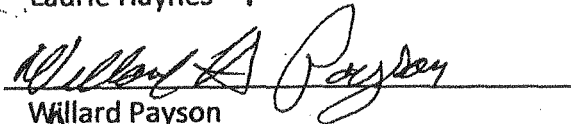
By Select Board, Town of Cushing:



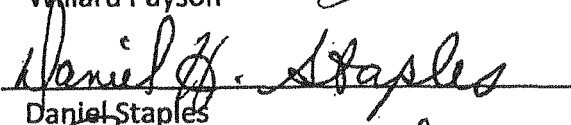
Alton Grover



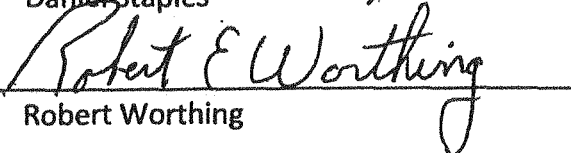
Laurie Haynes



Willard Payson



Daniel Staples



Robert Worthing

By Select Board, Town of Friendship:



Elizabeth Dinsmore

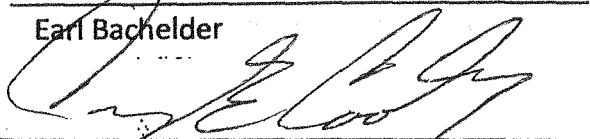


Arthur Thompson

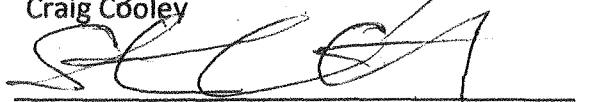


Earl Bachelder

By Select Board, Town of Waldoboro:



Craig Cooley



Steve Cartwright


Attest to all:



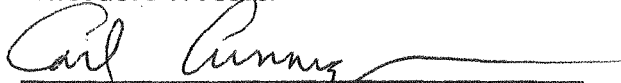
John A. Spear, Town Manager



James Bodman

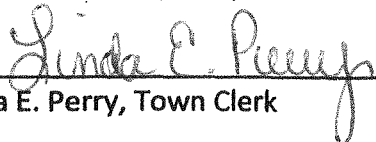


Theodore Wooster



Carl Cunningham

Attest: A true copy of a Municipal Services Agreement as certified to me by the Municipal Officers of Waldoboro, Maine on July 24, 2012.



Linda E. Perry, Town Clerk

Attachment I

Allocation
Of Waldoboro's and Each Partner's
Financial Obligation

<u>Allocation Town</u>	<u>2010 Census</u>	<u>Percentage</u>
Cushing	1,534	19.77%
Friendship	1,152	14.84%
Waldoboro	<u>5,075</u>	<u>65.39%</u>
Aggregate	7,761	100.00%

Source: United States Census Data, 2010

Attachment II

Form of Waldoboro's
Transfer Station Budget

Account Description

4101 Regular Employees
4102 Part-time Employees
4103 Overtime/Holiday Pay
4111 Contract Personnel
4201 Health Insurance
4202 Group Life Insurance
4203 Social Security
4204 Maine State Retirement
4205 Medicare
4207 Workers' Compensation
4250 Property & Casualty Risk Pool
4301 Travel and Meeting Expense
4302 Membership Fees or Dues
4303 Training and Educational Materials
4304 Printing and Binding
4305 Postage and Mailing Services
4306 Advertising
4401 Telephone (832-7850 – 100%)
4402 Electricity
4501 Land Maintenance
4502 Transfer Station Building Maintenance
4503 Vehicle Maintenance
4505 Equipment Maintenance
4701 Professional Service
4721 Water Laboratory Services
4723 Licensing
4740 Tipping Fees (Penobscot Energy Recovery Company)
4741 Transportation Services
4743 Household Hazardous Wastes
4744 OBW, Tires and Scrap Metal Removal
4802 General Supplies
4806 Gasoline and Diesel Fuel
4842 Other Equipment

Transfer Station Budget Allocation

	Cushing	Friendship	Waldoboro	Total
Allocation Percent	19.77%	14.84%	65.39%	100.0%

Gross Budget:

Less:

Estimated Revenues

PERC Rebate

Dumping Fees

Permit Fees

Other Revenues

Use of Fund Balance

Use of Performance Credits

Add:

Debt Service

Interest

Principal

Allocation to Landfill

Reserve

Allocation to Capital

Reserve Program

Other Allocations

Est. GAT Penalty

Net Allocation

**TOWN OF WALDOBORO, MAINE
SPECIAL AMUSEMENT ORDINANCE**

ARTICLE 1. TITLE, PURPOSE, AND DEFINITIONS

A. Title

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Waldoboro, Maine.

B. Purpose

The purpose of this Ordinance is to control the issuance of special permits for music, dancing, or entertainment in facilities licensed by the State of Maine to sell liquor as required by 28 MSRA §702 and located within the legal boundaries of the Town of Waldoboro.

C. Definitions

1. Entertainment

For the purpose of this Ordinance, “entertainment” shall include any amusement, performance, exhibition, or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

2. Licensee

For the purpose of this section, “licensee” shall include the holder of a license issued under the Alcoholic Beverage Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employees of any such license.

ARTICLE 2. GENERAL

A. Permit Required

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the Town of Waldoboro a special amusement permit signed by at least a majority of the Board of Selectmen.

Applications for all special amusement permits shall be made in writing to the Board of Selectmen

and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the nature of his 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, the applicant shall describe those circumstances specifically; 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 Board in the issuing of the permit, including but not limited to a copy of the applicants current liquor license.

No permit shall be issued for any thing or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

The fee for the special amusement permit shall be \$10.00.

The Board of Selectmen shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 15 days of the date the request was received, at the testimony of the applicant and that of the public shall be taken.

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

A permit shall be valid only for the license year of the applicant's existing liquor license.

B. Inspections

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by an ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State Law, it shall be the duty of the licensee, or 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.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or State law, it shall be the duty of the licensee, or the person in charge of the premises, to give any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the Board of Selectmen may revoke 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 take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his duty. Provided, that no license of special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the same time it is sought to make the inspection.

C. Suspension or Revocation of a Permit

The Board of Selectmen may, after a public hearing preceded by notice to interested parties,

suspend, or revoke any special amusement permits which have been issued under this Ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, bylaws, or rules and regulations.

D. Rules and Regulations

The Board of Selectmen is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the music, dancing, or entertainment permitted under each class, and any 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 activities on those premises, and the hours during which the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

E. Permit and Appeal Procedures

1. Any licensee requesting a special amusement permit from the Board of Selectmen shall be notified in writing of their decision no later than fifteen (15) days 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 30 days after an application for a permit has been denied.
2. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the Waldoboro Board of Appeals as defined in 30 MSRA §2411. The Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to public health, safety, or welfare, or that the denial, revocation, or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by a preponderance of evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.

F. Admission

A licensed hotel, Class A restaurant, Class A tavern, or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the special amusement permit.

ARTICLE 3. PENALTY, SEPARABILITY, AND EFFECTIVE DATE

A. Penalty

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than One Hundred Dollars (\$100.00) for the first offense, and up to Two Hundred Dollars (\$200.00) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Waldoboro.

B. Separability

The invalidity of any provisions of this Ordinance shall not invalidate any other part.

C. Effective Date

The effective date of this Ordinance shall be March 10, 1979.

ORDINANCE TO REGULATE TRAFFIC TOWN OF WALDOBORO

BE IT ORDAINED BY THE INHABITANTS OF THE TOWN OF WALDOBORO:

ARTICLE 1. DEFINITIONS OF WORDS AND PHRASES

The following words and phrases, when used in this Ordinance, shall, for the purpose of this Ordinance, have the meanings respectively ascribed to them in this Article.

AUTHORIZED EMERGENCY VEHICLE - Vehicles of Fire Departments, Law Enforcement Agencies, Ambulances and other Emergency Vehicles being operated in response to an emergency call.

DRIVER - Any person who drives, or is actually in control of, a vehicle.

DRIVEWAY OR PRIVATE ROAD - Every way or place, in private ownership, used for vehicular traffic by the owner and those persons having expressed or implied permission of the owner but not by other persons.

INTERSECTION - The area embraced within the prolongations or continuations of the lateral side lines of two or more highways which join one another.

MOTOR VEHICLE - Every vehicle which is self propelled but not operated on rails.

OFFICIAL TRAFFIC SIGNS - All signs, signals, markings and devices placed or erected by officials having jurisdiction for the purpose of regulating, warning and/or guiding traffic.

PARK - The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually loading and/or unloading.

PEDESTRIAN - Any person afoot.

RIGHT-OF-WAY - The privilege of immediate use of the roadway.

SIDEWALK - That portion of the street between the curb or ditch line and the adjacent property lines intended for the use of pedestrians.

STOP - The complete cessation of movement.

STOP, STANDING OR STOPPING - The stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with a Police Officer or a sign or signal.

STREET, HIGHWAY OR ROADWAY - That portion of a Public Way open to the public for the use of vehicular traffic.

TRAFFIC - Pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or

together, while using any street for the purpose of travel.

THROUGH HIGHWAY - Every street or highway so marked by appropriate stop signs.

VEHICLE - Every device in, upon, or by which any person or property is, or may be, transported or drawn upon a highway, except devices propelled by human power.

ARTICLE II. AUTHORIZED EMERGENCY VEHICLES & POLICE AUTHORITY

1. It shall be the duty of the officers of the Police Department, or such officers as may be assigned to such duty, to enforce all traffic laws of this Town and all the State Motor Vehicle Laws applicable to street traffic in this Town.
2. The Police Department is hereby authorized, empowered and ordered to direct, control, restrict and regulate, and when necessary temporarily to divert or exclude, the movement of traffic of every kind on any street or highway in the interest of public safety, health or convenience to meet special needs or emergencies.
3. No person shall willfully fail or refuse to comply with any lawful order or direction of a Police Officer.
4. Persons riding or driving any animal drawn vehicles are to obey traffic regulations. Every person riding an animal or driving an animal drawn vehicle shall be subject to the provisions of this Ordinance.
5. The provisions of this Ordinance shall not apply to authorized emergency vehicles as defined in this Ordinance while the driver of such vehicle is operating the same in the necessary performance of public duties.
6. Upon the sounding of a siren, bell, or whistle, or displaying of a red or blue warning light, the driver of any vehicle shall yield the right-of-way to an authorized emergency vehicle by driving to the extreme right of the road and coming to a full stop.

ARTICLE III. THROUGH STREETS DESIGNATED - STOP SIGNS REQUIRED

1. All streets upon which have been erected stop signs per order of the Selectmen or the State Highway Commission shall be considered to enter upon through ways.

ARTICLE IV. MISCELLANEOUS DRIVING RULES

1. Crossing Fire Hose - No vehicle shall be driven over any fire hose of the Fire Department or Highway Department except with the permission of a Police Officer or the Department Official in command.
2. Driving on Sidewalks - The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.
3. Limitations on Backing - The driver of the vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with the safety of other traffic.
4. General Operation - No vehicle shall be operated upon any street or highway except in a careful and prudent manner, having due regard to the traffic surface of the highway and other conditions then existing or as to endanger any person or property or at an unreasonable rate of speed.

ARTICLE V. METHOD OF PARKING

1. No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street or highway in violation of any of the provisions of this Traffic Ordinance or any amendment thereto.
2. No person shall park or stand a vehicle other than in the manner indicated by markings or signs.

ARTICLE VI. STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIC PLACES

1. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law, or at the direction of a Police Officer, in any of the following places:
 - 1.1. On a sidewalk,
 - 1.2. In front of a public or private driveway,
 - 1.3. Within an intersection,
 - 1.4. On a colored marking,
 - 1.5. Alongside, or opposite, a street or highway excavation,
 - 1.6. On the roadway side of any vehicle stopped or parked parallel,
 - 1.7. At any place where official signs or markings prohibit stopping or parking,
 - 1.8. In front of, or within ten feet (10') of a fire hydrant,

- 1.9. On a crosswalk.
2. The Selectmen are authorized to determine and designate by proper signs, places in which stopping, standing or parking of vehicles would create a particularly hazardous condition or cause unusual delay in traffic. The Selectmen are authorized to designate traffic lanes, parking spaces and parking limits.
3. When official signs are erected at hazardous or congested places as authorized, no person shall stop, stand or park a vehicle in any designated place.
4. No person shall, at any time, stop, stand, or park any vehicle other than parallel to the curb or the edge of the roadway unless directed to do so by a Police Officer or sign or colored marking.

ARTICLE VII. PARKING WHEN INTERFERING WITH OR HINDERING THE REMOVAL OF SNOW OR STREET SWEEPING OPERATIONS:

1. No vehicle shall be parked at any time on a public way so as to interfere with snow removal or street sweeping operations.
2. No vehicle shall be parked on any street in the Town of Waldoboro between the hours of 12:00 O'clock midnight and 7:00 O'clock A.M. from November 1st until April 1st. This shall not apply to physicians on emergency and professional calls.

ARTICLE VIII. REGULATORY PROVISIONS

1. No Parking Areas - No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a Police Officer in any of the following places:

1.1. Friendship street

- 1.1.1. On the easterly side of the street from the northern extremity of the Joseph and Rosemary Flanagan property (U4-118) to the southern extremity of the Gary and Deborah smith property (U3-21) and from the northern extremity of the Ronald and Suzanne Philips property (U3-30) to the southern extremity of the New Harbor Water Company, Inc. property (U2-23)
- 1.1.2. On the westerly side of the street from the northern extremity of the Alfred Storer property (U4-3) to the northern extremity of the Gary and Carol

Rundle property (U4-1) and from the northern extremity of the Tami Smith property (U3-4) to the southern extremity of the Waite and Mary Weston property (U3-1).

- 1.1.3. On both sides of the street from the point of intersection with Main Street for a distance of twenty (20) feet.

1.2. Jefferson Street

- 1.2.1. On the easterly side, thirty (30) feet from the intersection with Main Street; and from the northern extremity of the Taction property (U4-53) to the intersection with U. S. Route #1.
- 1.2.2. On the westerly side, from the intersection with Main Street to the intersection with U.S. Route #1.

- 1.3. Pleasant Street - On both sides of the street from the intersection with Friendship Street to a point fifty (50) feet south of the intersection with Marble Avenue.

- 1.4. Marble Avenue - Both sides of the street for its entire length.

- 1.5. Glidden Street - On the easterly side of the street for its entire length.

- 1.6. Shady Avenue - On the southerly side of the street for its entire length.

- 1.7. School Street - Both sides of the street for its entire length.

1.8. Pine Street

- 1.8.1. On the easterly side, from the intersection with Medomak Terrace to the southern extremity of the Town of Waldoboro Public Landing property (U11-19) .
- 1.8.2. On both sides of the street, from the intersection with Main Street to the intersection with Medomak Terrace and from the southern extremity of the Oriana Hilton property (U11-31) to the end of the street.

- 1.9. Medomak Terrace - From the entrance on Main Street, the westerly or southerly sides, as the case may be, for its entire length.

1.10. Main Street

1.10.1. On the southerly side, from the western end of the Medomak River Bridge to the western end of the Theodore and Elizabeth Wooster property (U4-17); and from a point thirty-one (31) feet west of the intersection with Friendship Street to the intersection with Pleasant Street.

1.10.2. On the northerly side, twenty (20) feet westerly of the intersection with Jefferson Street and forty two (42) feet easterly of the intersection with Jefferson Street .

1.11. Municipal Building - In front of the overhead fire, police and ambulance doors.

1.12. Marine Park - On either side of the road traversing the Waldoboro Marine Park from the Dutch Neck to the waterfront at the Boat Ramp. (This paragraph shall not prohibit parking in the designated parking area.).

1.13. Route #1

1.13.1. No person shall stop, stand, or park a vehicle in the breakdown lanes on the east and west sides of Route #1, in the area also known as Moose Crossing.

The Ordinance shall apply specifically to an area beginning 4/10 of a mile south of node sign number 7048 to a point ending 9/10 of a mile south of node sign #7048. This area will also be posted with "No Parking" signs.

1.13.2. On the North side of Atlantic Highway from the intersection of Washington Road east to the MCRR bridge abutment.

1.14. Philbrook Lane - On either side of Philbrook Lane from the intersection of Philbrook Lane and School Street to CMP Pole #10 located on the northern end of Philbrook Lane.

2. Limited Parking

2.1. Friendship Street - From the intersection with Main street to the beginning of the "No Parking" area at the northern end of the Joseph and Rosemary Flanagan property (U4-118) (see Section 1.1.1., this Article), parking on both sides of the street shall be limited to one (1) hour from 8:00 A.M. to 6:00 P.M.

2.2. Main Street

2.2.1. On the northerly side, from the intersection with School Street to the Meenahga Grange Hall (U4-24) parking shall be limited to one (1) hour from

8:00 A.M. to 6:00 P.M.

- 2.2.2. On the southerly side where parking is allowed between the intersection with Friendship Street and the westerly end of the Theodore and Elizabeth Wooster property (U4-17), parking shall be limited to one (1) hour between 8:00 A.M. and 6:00 P.M.
- 2.2.3. On the northerly side, fifty (50) feet on the westerly side of the intersection with Jefferson Street shall be restricted to passenger cars only (no trucks or vans).

3. Obedience to Signs and Markings

- 3.1. Posted signs, as well as colored traffic markings shall be complied with at all times.
 - 3.1.1. White painted traffic markings shall be considered to be the limits of anyone parking space. Any vehicle, parked other than in the prescribed manner, i.e., with any portion of the vehicle being outside of said area or occupying more than one space or part thereof, shall be considered to be illegally parked and obstructing the uniform flow of traffic, or depriving another vehicle of its parking space.
 - 3.1.2. Yellow painted traffic markings shall be considered to denote a "No Parking" area.

4. Speed Limitations

- 4.1. All motor vehicles, being operated within the limits of the Town of Waldoboro, shall move in accordance with good safety practices, but in no case in excess of posted speed limits.
 - 4.1.1. The speed limits upon any way within the Town shall be as established by the Commissioner of Maine, Department of Transportation.
 - 4.1.2. In the residential areas of the Town, the speed limit shall be as posted. Should there be no posted limits within said residential areas, the speed shall be governed by existing conditions, but in no case shall it be in excess of twenty-five (25) miles per hour. Residential areas shall be considered to be those contiguous to any way which are built-up with structures which are situated less than one hundred fifty(150) feet apart for a distance of one quarter mile (1/4)

4.1.3. In built-up areas of the Town, where no limit is posted, the speed of vehicles shall be in accordance with existing conditions, but, in no case, greater than thirty-five (35) miles per hour. Built-up areas shall be considered to be defined in 29A, M.R.S.A., section 2074.

4.1.4. Speed limits in the vicinity of schools shall be fifteen (15) miles per hour. In any areas not previously indicated in this section and where no speed limit is posted, the maximum speed limit shall be forty-five (45) miles per hour.

5. Pedestrian Regulations

5.1. The following provisions shall apply to pedestrian traffic within the Town:

5.1.1. Pedestrians shall utilize sidewalks where available.

5.1.2. Where no sidewalk is available, pedestrians will walk facing on-coming traffic. Pedestrians walking on roads, highways and ways within the Town shall give way to on-coming traffic.

5.1.3. Where provided, crosswalks will be utilized. Where crosswalks or safety zones are not provided, pedestrians will cross public ways cautiously in such a manner as to create no hazard to oneself, other pedestrians or vehicular traffic.

6. One Way Streets

6.1. Medomak Terrace - from the intersection with Main Street to the intersection with Medomak Terrace, shall be one way from Main Street to Medomak Terrace and entrance shall be made only by vehicles proceeding to an easterly direction on Main Street.

7. Handicap Parking - Any motor vehicle or motorcycle registered by a handicapped person is exempt from any parking violation as long as they are not hindering vehicle or pedestrian traffic and as long as are not trespassing on another's property. The vehicle must properly display special designated plates or a placard issued under Title 29A, section 521, 521-2 and 521-3 and 521-6, and may park a length of time which does not exceed twice the time limit otherwise applicable.

ARTICLE IX. PENALTIES

1. Conviction - Whosoever violates any of the forgoing provisions of this Ordinance shall, upon

conviction, be punished by a fine of not more than one hundred dollars (\$100), except that violations involving disability parking spaces shall, upon conviction, be punished by a fine of not more than two hundred dollars (\$200). The violation of any provision of this ordinance shall be a traffic infraction.

2. Waive Court Action - Any person charged with a violation of the parking regulations MAY be given the opportunity to waive all court action by paying ten dollars (\$10) to the Town Treasurer, or his duly authorized representative, at the Waldoboro Municipal office, not later than 5:00 P.M. on the weekday next following the date of violation. All violations occurring between 5:00 P.M. Friday and 12:00 Midnight Sunday shall be paid by 5:00 P.M. Monday. (30A M.R.S.A., section 3009, paragraph C, sub-paragraph 2)
3. Appeals - A registered owner of a vehicle that has been issued a ticket under this ordinance may request that the issuance of the ticket be rescinded by appealing the issuance of said ticket. An appeal shall be made by delivering to the Waldoboro Police Department, within seven business days of the issuance of the ticket, a written appeal on a form to be provided by the Police Department. Delivery of the appeal shall be accomplished by hand delivery to the Police Department or by U S mail, postage prepaid, properly addressed to the Chief of Police and post marked within seven business days of the date of issuance of the ticket. The Chief of Police, or his designee, shall render a written decision granting or denying the appeal within ten business days of the submission of the appeal. Written notice of the decision shall be sent by regular mail to the registered owner of the motor vehicle, a record of which shall be maintained at the Police Department.
4. Towing - Members of the Police Department are hereby authorized to have a vehicle removed from any street or highway within the Town and have it taken to a garage or other place of safety for impoundment under the circumstances hereinafter enumerated:
 - 4.1. Any vehicle which is disabled and / or left unattended upon any bridge.
 - 4.2. When a vehicle upon a highway is disabled and is an obstruction to traffic.
 - 4.3. When a vehicle is left unattended upon a street or highway and constitutes a hazard or obstruction to the normal movement of traffic or violates any of the provisions of this Ordinance.
 - 4.4. When a vehicle is parked so as to interfere with the removal of snow or with street sweeping operations.
 - 4.5. If a vehicle receives a fourth violation notice (ticket) of the parking regulations of this ordinance, and none of the parking ticket waiver fees have been paid, and none of the tickets are being appealed under the provisions of IX 3 above, the vehicle

may be towed and impounded. The towing and impounding of a vehicle shall be under the procedures set forth in Article X below.

- 4.6. A vehicle towed and impounded under the provisions of this article shall not be released unless and until the registered owner of the vehicle provides proof of ownership of the impounded vehicle, and all outstanding parking ticket waiver fees have been paid. All towing and storage charges shall be the responsibility of the registered owner of the vehicle.
- 4.7. The Town of Waldoboro shall not be responsible for any damages that may occur as a result of any vehicle being towed.

ARTICLE X. VEHICLE TOWING PROCEDURES

1. Towing Procedures

- 1.1. The procedures herein set forth shall be utilized in all cases where a vehicle is towed at the direction of a police officer.
 - 1.1.1. Notice shall be sent to the registered owner of a vehicle towed by regular mail, postage prepaid, within two business days following the tow. The notice shall, at a minimum state the following:
 - 1.1.1.1. The registration number and a brief description of the vehicle;
 - 1.1.1.2. The name and address of the person or company performing the tow;
 - 1.1.1.3. The location where the vehicle is impounded;
 - 1.1.1.4. The section of the ordinance which led to the tow;
 - 1.1.1.5. That an appeal hearing as provided herein in 4 below is available

2. Towing Appeals

- 2.1. A person whose vehicle has been towed at the direction of a police officer may request that a hearing be held to determine the validity of the tow. The hearing will be held by the Police Chief, or his designee, within seventy-two (72) hours of a request for a hearing. The appellant shall be given notice of the time and location of the hearing and shall be allowed to present any evidence, testimony or documentation in support of his or her position and shall have the right to question any witnesses appearing in opposition to his or her position. The hearing shall be conducted as informally as possible consistent with due process. The Police Chief shall consider any relevant evidence or testimony and may uphold the validity of the tow. If the tow is not upheld, the Town shall pay the full cost of the tow and any

accrued storage charges assessed by the tow operator up to and including the day upon which the hearing is held.

- 2.2. Any person aggrieved by a decision of the Police Chief may appeal to the Selectmen in writing within ten (10) days of receipt of that decision in writing. The Selectmen may uphold or reverse the Police Chief's decision. If the decision is reversed, the Town shall pay the full towing fee and any accrued storage charges up to and including the day upon which the hearing before the Police Chief was held.

ARTICLE XI. EFFECTIVE DATE AND VALIDITY OF ORDINANCE

1. Effective Date - This Ordinance shall be published in the next issue of the Lincoln County News, April 1990 and becomes effective immediately upon enactment by the Board of Selectmen,
2. Validity - If any part of parts of this Ordinance is, for any reason held to be invalid, such decision shall not effect the validity of the remaining portions of the Ordinance.
3. Title - This ordinance shall be known and cited as "THE ORDINANCE TO REGULATE TRAFFIC FOR THE TOWN OF WALDOBORO", and it shall supersede all previous traffic ordinances, and their amendments, to the contrary.
4. Authorization - This Ordinance is adopted pursuant to Home Rule Powers as provided for in Title 30-A, M.R.S.A., section 3009.

Given under our hands, this twenty fifth day of September, 2012

Board of Selectmen:
Town of Waldoboro, Maine

Craig E. Cooley, Chairman

James Bodman, Vice-chair

Steve Cartwright

Theodore M. Wooster

Attest,

Linda Perry, Town Clerk

Carl W. Cunningham

ORDINANCE TO REGULATE TRAFFIC TOWN OF WALDOBORO

BE IT ORDAINED BY THE INHABITANTS OF THE TOWN OF WALDOBORO:

1. Limited Parking

1.1. Friendship Street - From the intersection with Main street to the beginning of the "No Parking" area at the northern end of the Joseph and Rosemary Flanagan property (U4-118) (see Section 1.1.1., this Article), parking on both sides of the street shall be limited to one (1) hour from 8:00 A.M. to 6:00 P.M.

1.2. Main Street

1.2.1. On the northerly side, from the intersection with School Street to the Meenahga Grange Hall (U4-24) parking shall be limited to one (1) hour from 8:00 A.M. to 6:00 P.M.

1.2.2. On the southerly side where parking is allowed between the intersection with Friendship Street and the westerly end of the Theodore and Elizabeth Wooster property (U4-17), parking shall be limited to one (1) hour between 8:00 A.M. and 6:00 P.M.

1.2.3. On the northerly side, fifty (50) feet on the westerly side of the intersection with Jefferson Street shall be restricted to passenger cars only (no trucks or vans).

1.2.4. In the Town parking lot located on the easterly side of Jefferson Street (U4-53), parking shall be limited to no more than two (2) consecutive hours within any six (6) hour consecutive period.

Non-routed Speed Zones in the Town of: Waldoboro in Region: 2 created from Highways as of 08/03/2015 06:00:01

ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753705	BACK CV	30	31922	End of BACK CV	0	31923	Int of BACK CV DEAVER RD	0.54	0	1.17
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00520) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 13-DEC-10 by DEVMETRNR										
STARTING AT THE END OF BACK COVE ROAD IN WALDOBORO (HIGHWAY NODE 31922) AND EXTENDING NORTHEASTERLY TO A POINT 0.90 MILES WEST OF THE JUNCTION OF BACK COVE ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32133) (OPPOSITE POLE #17); A TOTAL DISTANCE OF 1.17 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753706	BACK CV	40	31923	Int of BACK CV DEAVER RD	0.54	32133	Int of BACK CV, FRIENDSHIP RD	0	1.17	2.07
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00520) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 13-DEC-10 by DEVMETRNR										
STARTING AT A POINT 0.90 MILES WEST OF THE JUNCTION OF BACK COVE ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32133) (OPPOSITE POLE #17) AND EXTENDING EASTERLY TO THE JUNCTION OF BACK COVE ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32133); A TOTAL DISTANCE OF 0.90 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753741	BURNHAM RD	35	32146	Int of BURNHAM RD WASHINGTON RD	0	32145	Int of BURNHAM RD, WASHINGTON RD	0	0	0.54
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 03614) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 15-DEC-10 by DEVMETRNR										
STARTING AT THE SOUTHERLY JUNCTION OF BURNHAM ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32145) AND EXTENDING NORTHERLY TO THE NORTHERLY JUNCTION OF BURNHAM ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32146); A TOTAL DISTANCE OF 0.54 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753744	CASTNER RD	40	31952	Int of CASTNER RD, FEYRLERS COR	0	31955	Int of CASTNER RD UNION RD	0	0	1.52
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00563) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 15-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF CASTNER ROAD AND FEYRLERS CORNER ROAD IN WALDOBORO (HIGHWAY NODE 31952) AND EXTENDING SOUTHERLY TO THE JUNCTION OF CASTNER ROAD AND ROUTE 235 IN WALDOBORO (HIGHWAY NODE 31955); A TOTAL DISTANCE OF 1.52 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753747	CHAPEL RD	35	31948	Int of CHAPEL RD, FEYLER'S COR	0	31951	Int of CHAPEL RD MANKTOWN RD UNION RD	0	0	1.36
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00561) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 15-DEC-10 by DEVMETRNR										
STARTING AT THE INTERSECTION OF FEYLER'S CORNER ROAD AND CHAPEL ROAD IN WALDOBORO (HIGHWAY NODE 31948) AND EXTENDING SOUTHERLY TO THE JUNCTION OF CHAPEL ROAD AND ROUTE 235 IN WALDOBORO (HIGHWAY NODE 31951); A TOTAL DISTANCE OF 1.36 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753707	DEAVER RD	20	31921	End of DEAVER RD	0	31923	Int of BACK CV DEAVER RD	0	0	0.92
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00523) Speed Zone last updated on 11-JUN-15 by GOULD Road last updated on 13-DEC-10 by DEVMETRNR										
STARTING AT END OF THE TOWN ROAD ON DEAVER ROAD IN WALDOBORO (HIGHWAY NODE 31921) (OPPOSITE CMP POLE #26/26) AND EXTENDING EASTERLY TO THE JUNCTION OF DEAVER ROAD AND BACK COVE ROAD IN WALDOBORO (HIGHWAY NODE 31923); A TOTAL DISTANCE OF 0.92 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753735	DEPOT ST	35	32367	Int of ATLANTIC HWY DEPOT ST JEFFERSON ST	0	31910	Int of CROSS ST DEPOT ST WAGNER BRG	0	0.53	2.35
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00555) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF DEPOT STREET AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32367) AND EXTENDING NORTHERLY TO THE JUNCTION OF DEPOT STREET AND WAGNER BRIDGE ROAD IN WALDOBORO (HIGHWAY NODE 31910); A TOTAL DISTANCE OF 1.82 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753718	DUCKPUDDL E RD	30	31882	TL - Nobleboro, Waldoboro	0	31886	TL - Bremen, Waldoboro	0	0.31	1.47
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00515) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE NOBLEBORO/WALDOBORO TOWN LINE ON DUCK PUDDLE ROAD (HIGHWAY NODE 31882) AND EXTENDING SOUTHERLY TO THE BREMEN/WALDOBORO TOWN LINE (HIGHWAY NODE 31886); A TOTAL DISTANCE OF 1.16 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753714	DUTCH NCK	35	32275	Int of BREMEN RD DUTCH NCK LEDGES CIR	0	31908	End of DUTCH NCK	0	0.51	3.57
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00521) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF DUTCH NECK ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32275) AND EXTENDING EASTERLY AND SOUTHERLY TO THE TERMINATION OF SAID ROAD (HIGHWAY NODE 31908); A TOTAL DISTANCE OF 3.06 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753745	FEYRLERS COR	45	32147	Int of FEYRLERS COR WASHINGTON RD	0	32147	Int of FEYRLERS COR WASHINGTON RD	0.8	0	0.8
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00559) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 15-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF FEYLER'S CORNER ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32147) AND EXTENDING NORTHEASTERLY TO A POINT 0.80 MILES NORTHEAST OF THE JUNCTION OF FEYLER'S CORNER ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32147); A TOTAL DISTANCE OF 0.80 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753746	FEYRLERS COR	35	32147	Int of FEYRLERS COR WASHINGTON RD	0.8	31942	Int of FEYRLERS COR, OLD AUGUSTA RD, WINSTON RD	0	0.8	3.21
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00559) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 15-DEC-10 by DEVMETRNR										
STARTING AT A POINT 0.80 MILES NORTHEAST OF THE JUNCTION OF FEYLER'S CORNER ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32147) AND EXTENDING NORTHEASTERLY TO THE JUNCTION OF FEYRLERS CORNER ROAD AND OLD AUGUSTA ROAD IN WALDOBORO (HIGHWAY NODE 31942); A TOTAL DISTANCE OF 2.41 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753713	FINN TOWN RD	35	31960	Int of FINN TOWN RD STATE RD	0.03	31960	Int of FINN TOWN RD STATE RD	0.26	0.28	0.51
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00525) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF GENTHNER ROAD AND LEDGES CIRCLE (HIGHWAY NODE 31903) AND EXTENDING NORTHEASTERLY TO THE JUNCTION OF LEDGES CIRCLE; DUTCH NECK ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32275); A TOTAL DISTANCE OF 0.23 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753712	FINN TOWN RD	40	31961	1501990 WALD,ALTON LEVENSALE,FINN TOWN	1.02	31967	1501997 WALD,RD 525,CL	0	2.22	2.91
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00525) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 13-DEC-10 by DEVMETR										
STARTING AT A POINT 0.75 SOUTH OF THE WALDOBORO/WARREN TOWN LINE (HIGHWAY NODE 31967) AND EXTENDING NORTHERLY TO THE JUNCTION OF WALDOBORO/WARREN TOWN LINE (HIGHWAY NODE 31967); A TOTAL DISTANCE OF 0.75 MLES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753710	FINNTOWN RD	30	31925	TL - Friendship, Waldoboro	0	31925	TL - Friendship, Waldoboro	0.48	0	0.48
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00528) Speed Zone last updated on 12-SEP-12 by DEVMETR Road last updated on 13-DEC-10 by DEVMETR										
STARTING AT THE FRIENDSHIP/WALDOBORO TOWN LINE (HIGHWAY NODE 31925) AND EXTENDING WESTERLY TO A POINT 0.55 MILES EAST OF THE JUNCTION OF FINNTOWN ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32134); A TOTAL DISTANCE OF 0.48 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753711	FINNTOWN RD	40	31925	TL - Friendship, Waldoboro	0.48	32134	Int of FINNTOWN RD FRIENDSHIP RD	0	0.48	1.03
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00528) Speed Zone last updated on 12-SEP-12 by DEVMETR Road last updated on 13-DEC-10 by DEVMETR										
STARTING AT A POINT 0.55 MILES EAST OF THE JUNCTION OF FINNTOWN ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32134) AND EXTENDING WESTERLY TO FINNTOWN ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32134); A TOTAL DISTANCE OF 0.55 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
3419603	FLANDERS COR	35	31934	Int of FLANDERS COR ORFFS COR	0	31935	Int of FLANDERS COR, NASH RD, OLD AUGUSTA RD	0	0	1.14
Speed Zone Effective Date: 11-SEP-13 Speed Zone Description (RD INV 15 00547) Speed Zone last updated on 18-SEP-13 by GILES Road last updated on 18-SEP-13 by GILES										
STARTING AT THE JUNCTION OF OLD AUGUSTA ROAD, AND FLANDERS CORNER ROAD (HIGHWAY NODE 31935) EXTENDING SOUTHERLY A DISTANCE OF 1.14 MILES, TO THE INTERSECTION WITH ORFFS CORNER ROAD (HIGHWAY NODE 31934), A TOTAL DISTANCE OF 1.14 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753716	GENTHNER RD	30	31885	Int of DUCKPUDDLE RD, GENTHNER RD	0	31885	Int of DUCKPUDDLE RD, GENTHNER RD	1.39	0	1.39
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00510) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 14-DEC-10 by DEVMETR										
STARTING AT THE JUNCTION OF GENTHNER ROAD AND DUCKPUDDLE ROAD IN WALDOBORO (HIGHWAY NODE 31885) AND EXTENDING EASTERLY TO A POINT 1.39 MILES EAST OF THE JUNCTION OF GENTHNER ROAD AND DUCKPUDDLE ROAD IN WALDOBORO (HIGHWAY NODE 31885) (OPPOSITE CMP POLE #16/523/16); A TOTAL DISTANCE OF 1.39 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753717	GENTHNER RD	35	31885	Int of DUCKPUDDLE RD, GENTHNER RD	1.39	31903	Int of GENTHNER RD, LEDGES CIR	0	1.39	2.12
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00510) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 14-DEC-10 by DEVMETR										
STARTING AT A POINT 1.39 MILES EAST OF THE JUNCTION OF GENTHNER ROAD AND DUCKPUDDLE ROAD IN WALDOBORO (HIGHWAY NODE 31885) (OPPOSITE CMP POLE #16/523/16) AND EXTENDING EASTERLY TO THE JUNCTION OF GENTHNER ROAD AND LEDGES CIRCLE (HIGHWAY NODE 31903); A TOTAL DISTANCE OF 0.73 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753748	GEORGE LUCE RD	25	31927	1501954 WALD,GEORGE LUCE RD,END	0	32136	Int of FRIENDSHIP RD GEORGE LUCE RD	0	0	0.23
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01911) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 15-DEC-10 by DEVMETR										
STARTING AT THE END OF GEORGE LUCE ROAD IN WALDOBORO (HIGHWAY NODE 31927) AND EXTENDING SOUTHERLY TO THE INTERSECTION OF GEORGE LUCE ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32136); A TOTAL DISTANCE OF 0.23 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753720	GLIDDEN ST	25	32038	Int of GLIDDEN ST MAIN ST	0	31412	1501418 WALD,GLIDDEN ST,SHADY AVE	0	0	0.05
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01105) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 14-DEC-10 by DEVMETR										
STARTING AT THE JUNCTION OF GLIDDEN STREET AND MAINE STREET IN WALDOBORO (HIGHWAY NODE 32038) AND EXTENDING NORTHERLY TO THE JUNCTION OF GLIDDEN STREET AND SHADY AVE IN WALDOBORO (HIGHWAY NODE 31412); A TOTAL DISTANCE OF 0.05 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753708	GOSHEN RD	40	32044	Int of GOSHEN RD, OLD ROUTE 1	0	31965	Int of BOWDEN RD, GOSHEN RD	1	0	1.4
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00527) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 13-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF GOSHEN ROAD AND OLD ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32044) (AT A POINT OPPOSITE CMP POLE #132/94/7) AND EXTENDING SOUTHERLY TO A POINT 1.40 MILES SOUTH OF THE JUNCTION OF GOSHEN ROAD AND OLD ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32044) (OPPOSITE CMP POLE #32); A TOTAL DISTANCE OF 1.40 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753709	GOSHEN RD	30	31965	Int of BOWDEN RD, GOSHEN RD	1	31963	Int of BURKET MILL RD, GOSHEN RD	0	1.4	1.89
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00527) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 13-DEC-10 by DEVMETRNR										
STARTING AT A POINT 1.40 MILES SOUTH OF THE JUNCTION OF GOSHEN ROAD AND OLD ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32044) (OPPOSITE CMP POLE #32) AND EXTENDING SOUTHERLY TO THE END OF GOSHEN ROAD (HIGHWAY NODE 31963); A TOTAL DISTANCE OF 0.49 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753715	GROSS NCK	35	31899	End of GROSS NCK	0.58	31900	Int of DUTCH NCK, GROSS NCK	0	0.58	2.08
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00519) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT A POINT 1.50 MILES SOUTH OF THE JUNCTION OF GROSS NECK ROAD AND DUTCH NECK ROAD IN WALDOBORO (HIGHWAY NODE 31900) (A POINT 0.25 MILES SOUTH OF CMP POLE #31.1) AND EXTENDING NORTHERLY TO THE JUNCTION OF GROSS NECK ROAD AND DUTCH NECK ROAD IN WALDOBORO (HIGHWAY NODE 31900); A TOTAL DISTANCE OF 1.50 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753729	MAIN ST	45	32365	Int of ATLANTIC HWY MAIN ST	0	65604	Non Int MAIN ST	0.92	0	0.94
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00536) Speed Zone last updated on 12-SEP-12 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF MAIN STREET AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32365) AND EXTENDING EASTERLY TO A POINT 1.00 MILES EAST OF THE JUNCTION OF MAIN STREET AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32365) (OPPOSITE POLE #5/25/43); A TOTAL DISTANCE OF 1.00 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753730	MAIN ST	35	65604	Non Int MAIN ST	0.92	32034	Int of BREMEN RD KALERS COR MAIN ST	0	0.94	1.23
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00536) Speed Zone last updated on 12-SEP-12 by DEVMETRN Road last updated on 14-DEC-10 by DEVMETRN										
STARTING AT A POINT 1.00 MILES EAST OF THE JUNCTION OF MAIN STREET AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32365) (OPPOSITE POLE #5/25/43) AND EXTENDING EASTERLY TO A POINT 1.30 MILES EAST OF THE JUNCTION OF MAIN STREET AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32365) (OPPOSITE CMP POLE # 29) ; A TOTAL DISTANCE OF 0.30 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753731	MAIN ST	25	32034	Int of BREMEN RD KALERS COR MAIN ST	0	32242	Int of FRIENDSHIP RD JEFFERSON ST MAIN ST	0	1.23	1.69
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00536) Speed Zone last updated on 12-SEP-12 by DEVMETRN Road last updated on 14-DEC-10 by DEVMETRN										
STARTING AT A POINT 1.30 MILES EAST OF THE JUNCTION OF MAIN STREET AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32365) (OPPOSITE CMP POLE # 29) AND EXTENDING EASTERLY TO THE JUNCTION OF MAIN STREET AND JEFFERSON STREET IN WALDOBORO (HIGHWAY NODE 32242); A TOTAL DISTANCE OF 0.45 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753733	MANKTOWN RD	45	31951	Int of CHAPEL RD MANKTOWN RD UNION RD	0	31951	Int of CHAPEL RD MANKTOWN RD UNION RD	0.73	1.36	2.09
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00561) Speed Zone last updated on 03-AUG-12 by DEVMETRN Road last updated on 14-DEC-10 by DEVMETRN										
STARTING AT THE JUNCTION OF MANKTOWN ROAD AND ROUTE 235 IN WALDOBORO (HIGHWAY NODE 31951)AND EXTENDING SOUTHERLY TO A POINT 2.30 MILES NORTH OF THE JUNCTION OF MANKTOWN ROAD AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32372); A TOTAL DISTANCE OF 0.74 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753734	MANKTOWN RD	40	31951	Int of CHAPEL RD MANKTOWN RD UNION RD	0.73	32372	Int of ATLANTIC HWY MANKTOWN RD	0	2.09	4.39
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00561) Speed Zone last updated on 12-SEP-12 by DEVMETRN Road last updated on 14-DEC-10 by DEVMETRN										
STARTING AT A POINT 2.30 MILES NORTH OF THE JUNCTION OF MANKTOWN ROAD AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32372) AND EXTENDING SOUTHERLY TO THE JUNCTION OF MANKTOWN ROAD AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32372); A TOTAL DISTANCE OF 2.30 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753728	MARBLE AV	25	31414	1501421 WALD,MARBLE AVE,PLEASANT ST	0	31416	1501424 WALD,MARBLE AVE,END	0	0	0.13
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01103) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF PLEASANT STREET AND MARBLE AVE IN WALDOBORO (HIGHWAY NODE 31414) AND EXTENDING TO THE END OF MARBLE AVE (HIGHWAY NODE 31416); A TOTAL DISTANCE OF 0.13 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753726	MEDOMAK TER	25	32036	Int of MAIN ST MEDOMAK TER	0	31410	Int of MEDOMAK TER PINE ST	0	0	0.05
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01163) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF MAIN STREET AND GEORGE GENTHNER STREET IN WALDOBORO (HIGHWAY NODE 32036) AND EXTENDING SOUTHERLY TO THE JUNCTION OF PINE STREET AND GEORGE GENTHNER STREET IN WALDOBORO (HIGHWAY NODE 31410); A TOTAL DISTANCE OF 0.05 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753723	MEDOMAK TERR	25	31409	Int of MEDOMAK TER MEDOMAK TERR	0	32035	Int of MAIN ST, MEDOMAK TERR	0	0	0.12
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01162) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF MEDOMAK TERRACE AND GEORGE GENTHNER STREET IN WALDOBORO (HIGHWAY NODE 31409) AND EXTENDING WESTERLY AND NORTHERLY TO THE JUNCTION OF MEDOMAK TERRACE AND MAIN STREET IN WALDOBORO (HIGHWAY NODE 32035); A TOTAL DISTANCE OF 0.12 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753722	MILL ST	25	32089	Int of KALERS COR MILL ST	0	32244	Int of JEFFERSON ST MILL ST	0	0	0.25
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01011) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF MILL STREET AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32089) AND EXTENDING EASTERLY TO THE JUNCTION OF MILL STREET AND JEFFERSON STREET IN WALDOBORO (HIGHWAY NODE 32244); A TOTAL DISTANCE OF 0.25 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753742	MILLER RD	25	31956	End of MILLER RD	0	31957	Int of MANKTOWN RD, MILLER RD	0	0	0.87
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00668) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 15-DEC-10 by DEVMETRNR										
STARTING AT THE END OF MILLER ROAD IN WALDOBORO (HIGHWAY NODE 31956) AND EXTENDING EASTERLY TO THE JUNCTION OF MILLER ROAD AND MANKTOWN ROAD IN WALDOBORO (HIGHWAY NODE 31957); A TOTAL DISTANCE OF 0.87 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753740	OLD COUNTY RD	25	31884	TL - Nobleboro, Waldoboro	2.35	32276	Int of BREMEN RD OLD COUNTY RD	0	2.97	3.17
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00531) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 15-DEC-10 by DEVMETRNR										
STARTING AT A POINT 0.20 MILES WEST OF THE JUNCTION OF OLD COUNTY ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32276) AND EXTENDING EASTERLY TO THE JUNCTION OF OLD COUNTY ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32276); A TOTAL DISTANCE OF 0.20 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753737	OLD ROUTE 1	30	32040	Int of MAIN ST OLD ROUTE 1	0	32041	Non-Int OLD ROUTE 1	0.1	0	0.25
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01312) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE EASTERLY JUNCTION OF OLD ROUTE 1 AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32040) AND EXTENDING EASTERLY TO A POINT 0.25 MILES EAST OF THE EASTERLY JUNCTION OF ROUTE OLD ROUTE 1 AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32040); A TOTAL DISTANCE OF 0.25 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753738	OLD ROUTE 1	45	32041	Non-Int OLD ROUTE 1	0.1	32043	Non-Int OLD ROUTE 1	0.75	0.25	2.45
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01312) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT A POINT 0.25 MILES EAST OF THE EASTERLY JUNCTION OF ROUTE OLD ROUTE 1 AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32040) AND EXTENDING EASTERLY TO A POINT 2.45 MILES EAST OF THE EASTERN JUNCTION OF OLD ROUTE 1 AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32040) (OPPOSITE UTILITY POLE #140/19); A TOTAL DISTANCE OF 2.15 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753739	OLD ROUTE 1	40	32043	Non-Int OLD ROUTE 1	0.75	32371	Int of ATLANTIC HWY OLD ROUTE 1	0	2.45	3.11
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01312) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 14-DEC-10 by DEVMETR										
STARTING AT A POINT 2.45 MILES EAST OF THE EASTERN JUNCTION OF OLD ROUTE 1 AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32040) (OPPOSITE UTILITY POLE #140/19) AND EXTENDING EASTERLY TO THE EASTERLY JUNCTION OF OLD ROUTE 1 AND ROUTE 1 IN WALDOBORO (HIGHWAY NODE 32371); A TOTAL DISTANCE OF 0.66 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753704	ORFFS COR	40	31934	Int of FLANDERS COR ORFFS COR	0	32250	Int of ORFFS COR WINSLOWS MILLS RD	0	1.53	2.53
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00560) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 13-DEC-10 by DEVMETR										
STARTING AT A POINT 1.20 MILES NORTH OF THE JUNCTION OF ORFF'S CORNER ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32250) (OPPOSITE POLE #903/150) AND EXTENDING SOUTHERLY TO THE JUNCTION OF ORFF'S CORNER ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32250); A TOTAL DISTANCE OF 1.20 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753703	ORFFS COR	35	31375	TL Jefferson Waldoboro	0	31375	TL Jefferson Waldoboro	0.96	0.37	1.33
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00560) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 13-DEC-10 by DEVMETR										
STARTING AT THE WALDOBORO/JEFFERSON TOWN LINE ON ORFF'S CORNER ROAD (HIGHWAY NODE 31375) AND EXTENDING SOUTHEASTERLY 1.20 MILES NORTH OF THE JUNCTION OF ORFF'S CORNER ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32250) (OPPOSITE POLE #903/150); A TOTAL DISTANCE OF 0.96 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753704	ORFFS COR	40	31375	TL Jefferson Waldoboro	0.96	31934	Int of FLANDERS COR ORFFS COR	0	1.33	1.53
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00560) Speed Zone last updated on 26-JAN-11 by DEVMETR Road last updated on 13-DEC-10 by DEVMETR										
STARTING AT A POINT 1.20 MILES NORTH OF THE JUNCTION OF ORFF'S CORNER ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32250) (OPPOSITE POLE #903/150) AND EXTENDING SOUTHERLY TO THE JUNCTION OF ORFF'S CORNER ROAD AND ROUTE 32 IN WALDOBORO (HIGHWAY NODE 32250); A TOTAL DISTANCE OF 1.20 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753724	PINE ST	25	31410	Int of MEDOMAK TER PINE ST	0	32037	Int of MAIN ST PINE ST	0	0	0.05
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01161) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF PINE STREET AND GEORGE GENTHNER ROAD IN WALDOBORO (HIGHWAY NODE 31410) AND EXTENDING NORTHERLY TO THE JUNCTION OF PINE STREET AND MAIN STREET IN WALDOBORO (HIGHWAY NODE 32037);A TOTAL DISTANCE OF 0.05 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753725	PINE ST	25	31410	Int of MEDOMAK TER PINE ST	0	31411	1501417 WALD,PINE ST,END	0	0.05	0.4
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01163) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF PINE STREET AND GEORGE GENTHNER ROAD IN WALDOBORO (HIGHWAY NODE 31410) AND EXTENDING SOUTHERLY TO THE END OF PINE STREET IN WALDOBORO (HIGHWAY NODE 31411); A TOTAL DISTANCE OF 0.40 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753727	PLEASANT ST	25	32142	Int of FRIENDSHIP RD PLEASANT ST	0	32039	Int of MAIN ST, PLEASANT ST	0	0	0.12
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01102) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF PLEASANT STREET AND FRIENDSHIP STREET IN WALDOBORO (HIGHWAY NODE 32142) AND EXTENDING EASTERLY TO THE JUNCTION OF PLEASANT STREET AND MAIN STREET IN WALDOBORO (HIGHWAY NODE 32039); A TOTAL DISTANCE OF 0.12 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753743	RALPH WINK RD	25	31901	End of RALPH WINK RD	0	31902	Int of GENTHNER RD RALPH WINK RD	0	0	0.73
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00663) Speed Zone last updated on 17-JUL-15 by DEVMETRNR Road last updated on 15-DEC-10 by DEVMETRNR										
STARTING AT THE END OF RALPH WINCHENBACH ROAD IN WALDOBORO (HIGHWAY NODE 31901) AND EXTENDING NORTHERLY TO THE JUNCTION OF RALPH WINCHENBACH ROAD AND GENTHNER ROAD IN WALDOBORO (HIGHWAY NODE 31902); A TOTAL DISTANCE OF 0.73 MILES.										

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ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753732	REEF RD	30	31911	Int of REEF RD WAGNER BRG	0	31912	End of REEF RD	0	0	1.59
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00553) Speed Zone last updated on 10-OCT-14 by CROCE Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF REEF ROAD AND WAGNER BRIDGE ROAD IN WALDOBORO (HIGHWAY NODE 31911) AND EXTENDING NORTHERLY TO THE END OF REEF ROAD (HIGHWAY NODE 31912) (OPPOSITE CMP POLE #19/17); A TOTAL DISTANCE OF 1.04 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753736	ROBINSON RD	25	31937	Int of OLD AUGUSTA RD, ROBINSON RD	0	32150	Int of ROBINSON RD WASHINGTON RD	0	0	0.7
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 00558) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF ROBINSON ROAD AND OLD AUGUSTA ROAD IN WALDOBORO (HIGHWAY NODE 31937) AND EXTENDING SOUTHERLY TO THE JUNCTION OF ROBINSON ROAD AND ROUTE 220 IN WALDOBORO (HIGHWAY NODE 32150); A TOTAL DISTANCE OF 0.70 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753719	SCHOOL ST	25	32087	Int of MAIN ST SCHOOL ST	0	32243	Int of JEFFERSON ST SCHOOL ST	0	0	0.23
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01010) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF SCHOOL STREET AND MAIN STREET IN WALDOBORO (HIGHWAY NODE 32087) AND EXTENDING NORHTERLY AND WESTERLY TO THE JUNCTION OF SCHOOL STREET AND JEFFERSON STREET IN WALDOBORO (HIGHWAY NODE 32243); A TOTAL DISTANCE OF 0.23 MILES.										
ZONE_ID	Street Name	Speed	Start Node	Start Node Description	Start Offset	End Node	End Node Description	End Offset	Beg Mile Pt	End Mile Pt
2753721	SHADY AV	25	31412	1501418 WALD, GLIDDEN ST, SHADY AVE	0	31418	Int of SCHOOL ST, SHADY AV	0	0	0.05
Speed Zone Effective Date: 01-JAN-73 Speed Zone Description (RD INV 15 01104) Speed Zone last updated on 26-JAN-11 by DEVMETRNR Road last updated on 14-DEC-10 by DEVMETRNR										
STARTING AT THE JUNCTION OF GLIDDEN STREET AND SHADY AVE IN WALDOBORO (HIGHWAY NODE 31412) AND EXTENDING EASTERLY TO THE JUNCTION OF SHADY AVE AND SCHOOL STREET IN WALDOBORO (HIGHWAY NODE 31418); A TOTAL DISTANCE OF 0.05 MILES.										