Section I. Purpose

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue, and emergency medical services personnel in the town of Pittston.

Section II. Authority

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

Section III. Administration

This ordinance shall be administered by the Enhanced 9-1-1 Addressing Committee who is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections IV and V. The town office shall also be responsible for maintaining the following official records of this ordinance:

1. A Pittston map for official use showing road names and numbers;
2. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers;
3. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

Section IV. Naming System

All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel or dirt thoroughfare. "Property" refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned by the town of Pittston shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

1. No two roads shall be given the same name (e.g. Pine Road and Pine Lane)
2. No two roads should have similar sounding names (e.g. Beech Street and Peach Street)
3. Each road shall have the same name throughout its entire length within the town of Pittston

Section V. Numbering System

Numbers shall be assigned every 50 (fifty) feet along both sides of the road, with even number appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin.

The following criteria shall govern the numbering system:

1. All number origins shall begin from the Randolph-Pittston town line. The town line being Water Street in Randolph where it joins with Route 27, Wiscasset Road in Pittston. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
2. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.

3. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy. (e.g. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 23 Maple Street, Apt 2).

Section VI. Compliance

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

1. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure near the front door or entry.

2. Number at the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mailbox, or on some structure at the property line next to the walk or access drive to the residence or structure.

3. Size and Color of Number. Numbers shall be displayed in a color and size approved for use by the Enhanced 9-1-1 Addressing Committee and shall be located to be visible from the road.

4. Every person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

5. Interior location. All residents and other occupants are requested to post the assigned number and road name next to their telephone for emergency reference.

Section VII. New Construction and Subdivisions

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

1. New Construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owners to obtain an assigned number from the town office or select board. This shall be done at the time of the issuance of the building permit.

2. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system of the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the town office or select board, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet to aid in assignment of numbers to structures subsequently constructed.

Section VIII. Effective Date

This ordinance shall become effective as of XXX. It shall be the duty of the Enhanced 9-1-1 Addressing Committee to notify by mail each property owner and the Post Office of a new address at least 30 (thirty) days before the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property number, within 30 (thirty) days following notification. On new structures, numbering will be installed before final inspection or when the structure is first used or occupied, whichever comes first.
ARTICLE 1  DOMESTIC ANIMAL CONTROL ORDINANCE DRAFT

SEC. 1-101  Purpose

1. 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 require that all domesticated animals in the Town of Pittston be kept under control of their owner or keeper at all times so they will not injure persons or other animals, damage property, or create a public health threat; without unreasonable restricting owners and their animals in their normal activities, while holding owners responsible, where it is appropriate to do so, for the deleterious conduct of their animals.

2. The provisions of this ordinance that apply to the owner of a domesticated animal apply equally to any person keeping, or having control, custody, or possession of that animal.

SEC. 2-201  Definitions

1. Abandoned Animal, an animal that has been deserted by its owner or keeper.
2. Animal, every living, sentient creature not a human being.
3. Animal Control, control of dogs, cats, and domesticated animals.
4. Animal Control Officer, any person appointed by the Town of Pittston to enforce animal control laws.
5. Animal Shelter, a facility that includes a physical structure or part of a physical structure that provides temporary or permanent shelter to stray, abandoned, abused or owner-surrendered animals.
6. At-Large, off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.
7. Dog, any animal in the canine family.
8. Domestic Animal, an animal, such as a horse, cat or dog, that has been tamed and kept by humans as a work animal, food source, or pet, especially a member of those species that have, through selective breeding, become notably different from their wild ancestors.
9. Leash, a hand-held device, 30 feet or less in length, which can be used to restrain a dog if the dog fails to respond to voice commands or if the owner or responsible party is ordered by a law enforcement officer to leash the dog and at all times when this Ordinance requires dogs to be leashed.
10. Owner, any person or persons, firm, association, or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.
11. Responsible Party. As used in this ordinance, the term “responsible party” means any person who has possession or custody of a dog. If a dog is in violation of the restrictions of this Ordinance, the owner of the dog and the responsible party are jointly and severally liable for the violation.
12. Voice Control. As used in this ordinance, the term "voice control" means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and a violation of this Ordinance occurs, unless such person (or in the case of a minor child, an adult present with the child) has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog.

Sec 3-301 Animal Control Officer
A qualified person shall be employed by the Town of Pittston who shall be known as and perform the duties of Animal Control Officer. The Animal Control Officer shall be principally responsible for the enforcement of all laws related to dogs, cats and other domesticated animals. The Animal Control Officer shall be trained and certified in accordance with Title 7, M.R.S.A., Section 3906-B.

Sec. 4-401 At-Large Dogs
It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner of any dog found at large shall be subject to the civil penalties provided in this ordinance.

Sec. 5-501 Impoundment or Return of At-Large Dogs
All dogs found at-large in violation to Title 7, M.R.S.A., Section 3911 may be impounded at the animal shelter at the discretion of the Animal Control Officer.

Sec. 5-502 Disposition of Impounded Animal
An owner is entitled to resume possession of any impounded animal provided that all provisions of this ordinance have been met and that all impoundment fees due under the provisions of this ordinance have been paid. Any animal not claimed after 7 days may be classified as an abandoned animal, and the animal's owner may be subjected to all civil penalties authorized by this ordinance.

Sec. 5-503 Impoundment Fee
An owner may reclaim an impounded animal by first paying to the animal shelter, contracted by the Town of Pittston all set impoundment fees as set by said animal shelter. Proof that all tags and licenses are up to date is required before the shelter will release an animal.

Sec. 5-504 Animal Noise
1. Except as provided in subparagraph (2) and (3) below, no owner shall permit or allow any domesticate animal to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for 20 minutes or more or recur intermittently for one hour or more. Upon written complaint by the person disturbed, the Animal Control Officer may investigate and may give written notice to the owner or keeper of such an animal that such annoyance or disturbance must cease. Thereafter, upon continuance of such annoyance or disturbance, such owner shall be subject to the penalties for violation pursuant to Sec. 5-504(2)
2. Sec. 5-504(1) shall not apply if any animal is situated near or by a legitimate cause for provocation.

3. Sec. 5-504(1) shall not apply to farm animals kept on a property located in the Town of Pittston. For purposes of this exception, dogs are not “farm animals” and kennels are not “farms.”

Sec. 5-505 Dangerous Dogs

Any person who is assaulted by a dog or any person witnessing an assault against a person or domesticated animal or a person with knowledge of an assault against a minor, within thirty (30) days of the assault, may make a written complaint to the Animal Control Officer that the dog is a dangerous dog. The Animal Control Officer may issue a civil violation citation for keeping a dangerous dog pursuant to 7 M.R.S.A. §3952. After issuing the citation and before hearing in court, if the dog poses an immediate or continuing threat to the public, the Animal Control Officer shall order the owner of the dog to muzzle, restrain or confine the dog to the owner’s premises or to have the dog, at the owner’s expense, at a place determined by the Animal Control Officer. If the owner fails to comply with such order, the Animal Control Officer may apply to the District Court, Superior Court or a Justice of the Peace pursuant to 7 M.R.S.A. §3952 for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public.

Sec. 5-506 Trespass

1. An owner of an animal may not allow that animal to enter onto the property of another after the owner has been warned by the Animal Control Officer or a law enforcement officer that the animal was found on the property of another.

2. The owner of an animal is responsible, at the owner’s expense, for removing such animal found trespassing. The Animal Control Officer, may at the owner’s expense, remove and control the animal if:
   A. the owner fails to remove the animal after having been notified by the Animal Control Officer that the animal was trespassing; or
   B. the animal is an immediate danger to itself, to persons, or to another’s property.
   C. Any animal so removed shall be subject to the provisions of Sections V, VI, and VII in the same manner as an at-large dog.

Sec. 5-507 Tags and Stickers

No dog shall be kept within the limits of the Town of Pittston unless such dog is licensed by its owner in accordance with Maine Law. The Town Clerk shall provide with each new license issued for a dog a tag indicating the year the license is issued and such other information as may be required under 7 M.R.S.A. §3922-B.

Sec. 5-508 Rabies Tags

Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training, or in an exhibition or on the premises of the owner. When the dog is hunting,
in training, or in an exhibition, its owner shall produce proof of licensure and proof of rabies immunization within twenty-four (24) hours upon request of the Animal Control Officer.

Sec. 5-509 Violations/Penalties
1. Any persons who violate Sec.5-504, Animal Noise, shall be subject to civil penalties for each violation, as established by the Board of Selectmen.

2. Any person who violates any other section of this Ordinance shall be subject to a civil penalty of not less than $100.00 and not more than $500.00 plus costs for each offense.

3. All civil penalties collected pursuant to this Ordinance shall be recovered to the use of the Town of Pittston and recorded in a separate account as required by 7 M.R.S.A. Section 3945.

4. A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Town Clerk in the amount specified by the Animal Control Officer by the seventh day prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Animal Control Officer shall cause the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.

Sec. 5-510 Impoundment Fee
An owner may reclaim an impounded animal by first paying to the Kennebec Valley Humane Society (KVHS) or any other approved animal shelter contracted by appointed by the Select Board an impoundment fee as determined by said animal shelter.

Sec. 5-511 Fee and Fines
Any fees and fines may be reviewed and revised. The impoundment fee is subject to revision by KVHS or any other appointed animal shelter at any time without notice. Fees and fines may be reviewed and revised at any time by a majority vote of the Select Board.

Sec. 5-512 Severability Clause
If any part of this ordinance is held invalid, such part shall be deemed severable, and the invalidity thereof shall not affect the remaining parts of this ordinance.

Effective Date:

Revised: Sept 21, 2016
BARKING OR HOWLING DOG
ORDINANCE

No person and/or owner having custody of any dog kept within the legal limits of the Town of Pittston shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking or other loud or unusual noises.

Upon written complaint by the person disturbed, signed and sworn to, any constable of the Town of Pittston or duly qualified law enforcement official may investigate and may give written notice to the owner and/or keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint.

Thereafter, upon continuance of such annoyance or disturbance, such owner shall be guilty of a civil violation and upon conviction thereof shall be punished by a fine of $25.00 (twenty five dollars) for the first offense. Each additional conviction, after the first conviction shall be punished by a fine of $50.00 (fifty dollars). All fines so assessed shall be recovered for the use of the Town of Pittston.

Enacted June 14, 1984
Special Town Meeting – June 14, 1984

A True Copy
Max Moulton, Town Clerk
ARTICLE I. GENERAL PROVISIONS

Section 1-1. PURPOSE.

This ordinance seeks to protect the health, welfare and public safety of the citizens of the Town of Pittston through the establishment of minimum lot standards; through the regulation of the construction, placement, reconstruction, alteration and relocation of structures and accessory buildings and parts thereof; through the requirement of permits for, and inspection of, such construction and for placement or relocation of such structures; and through the provision of penalties for violations of these regulations.

Section 1-2. STATUTORY AUTHORITY

This ordinance is adopted pursuant to the "home rule" provisions of 30-A M.R.S.A. §3001.

Section 1-3. APPLICABILITY.

The provisions of this ordinance shall apply to all new construction, reconstruction, alterations, relocation, and replacement of any structure or part thereof, and shall include the placement of mobile homes.

Section 1-4. NON-CONFORMING USES.

A) BUILDINGS. Any building or structure in existence on the effective date of this ordinance and not in conformance with the provisions of this ordinance shall be considered non-conforming provided it was legal when built or emplaced.

Any non-conforming building or structure may continue and be maintained, improved, repaired, or replaced, if the permit for said replacement is obtained within one year of the damage, destruction, or removal of the building or structure. Replacement structures shall meet setback requirements if feasible in cases where the existing non-conforming structure was completely destroyed. A building or structure which was improved, emplaced or constructed without the required building permit previous to the effective date of the ordinance is not considered non-conforming and must comply with all provisions of this ordinance.

B) LOTS.

1. Non-conforming lots of record are those lots which do not meet minimum area and frontage requirements of this ordinance. (See Section III-1 for the specifications of a legal non-conforming lot).
2. Vacant non-conforming lots of record may not be used for dwellings or other structures requiring septic disposal systems (See Section III-l.A for exceptions).

3. Vacant lots of record which meet area and frontage requirements but not setback or other requirements not involving area or width may be built on only if a variance of these requirements is obtained by action of the Board of Appeals.

4. Two or more contiguous lots of record owned by the same person or persons shall be considered to be one lot.

Section 1-5. CONFLICTING ORDINANCES.

This ordinance repeals and replaces the Building Code of the Town of Pittston, Maine, amended March 18, 1989. Where a conflict exists between this ordinance and any other applicable ordinances, laws or regulations, the more stringent provision shall apply.

Section 1-6. VALIDITY AND SEVERABILITY.

If any section, paragraph, sentence, clause, or phrase of this ordinance should be declared by the courts to be invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect. To this end the provisions of this ordinance are hereby declared to be severable and separable.

Section 1-7. AMENDMENTS.

All amendments to this ordinance shall apply to outstanding permits issued before the effective data of the amendment after six (6) months from the date of permit issuance if the particular work governed by the amendment has not been started.

This ordinance may be amended by a majority vote of registered voters of Pittston in a Town Meeting.

Section 1-8. EFFECTIVE DATE.

The effective date of this ordinance in March 17, 1990.

ARTICLE II. ADMINISTRATION.

Section II-1. BUILDING INSPECTOR.

This ordinance shall be administered by a Building Inspector or in his absence the Code Enforcement Officer (CEO), both of whom shall be appointed by the Town Selectmen.
A) **INSPECTION.** The Building Inspector or the Code Enforcement Officer shall inspect all structures for such permits as required by the provisions of Section II-2 of this ordinance for the purpose of enforcing the provisions of this ordinance and all other local laws governing the construction, reconstruction, alteration, relocation, and replacement of structures or parts thereof, and placement of mobile homes.

B) **RIGHT OF ENTRY.** The Building Inspector or the CEO, in the performance of his duties, may enter any structure during reasonable hours and after reasonable notice for the purpose of making the inspections required by this Ordinance.

Section II-2. **PERMITS.**

Permits are required before the construction, reconstruction, alteration, relocation, placement or replacement of any structure or placement of a mobile home which may reasonably be expected to have a fair market value of one thousand dollars ($1,000) or more.

A) **PLUMBING PERMIT.** A plumbing permit, when required, must be obtained from the local Plumbing Inspector before a Building Permit is granted. A copy of the plumbing permit shall be submitted with the building permit application.

B) **APPLICATION.** The application for the Building Permit shall be in writing and shall be made in such form as the Building Inspector shall prescribe, and shall contain a description of the proposed new construction, reconstruction, alteration, relocation or replacement, or placement of mobile home. A copy of the plumbing permit and the application, after approval or denial, shall be filed in the Town Office.

C) **EXEMPTIONS.** Routine maintenance projects such as painting, residing, re-roofing, or other common maintenance projects not requiring structural changes shall be exempted from the permit requirements of this ordinance, but not from other applicable provisions.

D) **BUILDING PERMIT APPROVAL.** The Building Inspector, after proper examination of the application, shall either issue the requested Building Permit or transmit notice of refusal with ten (10) working days. Notice of refusal when issued shall be in writing and shall state the reasons thereof. A permit shall be refused if the Building Inspector determines that the proposed construction, reconstruction, alteration, relocation or placement would not meet the provisions of this ordinance. No permit shall be issued unless the requirements of all other town ordinances have been met.
E) **LIFE OF BUILDING PERMIT.** All building permits shall be void unless work is commenced within one (1) year from the date of issuance, but may be renewed each year by the Building Inspector for a fee of twenty dollars ($20.00), or the amount of the original permit, whichever is less.

F) **DISPLAY OF BUILDING PERMIT.** Every Building Permit shall be displayed in a conspicuous place on the premises, clearly visible from the principal traveled street, and shall not be removed until all work covered by the Permit has been approved.

G) **CERTIFICATE OF OCCUPANCY.** No structure shall be occupied until a certificate of occupancy has been issued by the Building Inspector or CEO. The Building Inspector or CEO shall issue a Certificate of Occupancy when minimum standards as outlined in Section III-2 through III-12 of this ordinance have been met.

H) **FEES.** Building permit fees shall be charged according to the following schedule.

<table>
<thead>
<tr>
<th>Type of Construction</th>
<th>Rate</th>
<th>Sq. Ft.</th>
<th># Stories</th>
<th>Permit Fee</th>
<th>Minimum Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>New commercial structures, additions, and accessory building</td>
<td>.10 x</td>
<td>______ x ______ = $ ________</td>
<td>$10.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New residential structures and additions</td>
<td>.07 x</td>
<td>______ x ______ = $ ________</td>
<td>$10.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New residential accessory buildings</td>
<td>.02 x</td>
<td>______ x ______ = $ ________</td>
<td>$10.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Placement of mobile home</td>
<td>.05 x</td>
<td>______ = $ ________</td>
<td>$10.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial alteration</td>
<td></td>
<td></td>
<td></td>
<td>$25.00</td>
<td>$10.00</td>
</tr>
<tr>
<td>Residential alteration</td>
<td></td>
<td></td>
<td></td>
<td>$10.00</td>
<td></td>
</tr>
</tbody>
</table>

Square footage shall be calculated by the outside dimensions of the structure or addition. A basement or cellar shall not be counted as a story.

Section II-3. **APPEALS AND VARIANCES.**

The Board of Appeals of the Town of Pittston shall hear appeals and variance applications involving the provisions of this ordinance.
A) **APPEALS.** An appeal may be taken by any resident or landowner of the Town of Pittston from any decision made or order issued by the Building Inspector in connection with this ordinance or from his refusal to grant a permit required under the provisions of this ordinance within thirty (30) days to the Board of Appeals, and within thirty (30) days of the Board's decision, from the Board of Appeals to the Superior Court.

B) **VARIANCES.** The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of the Building Code of the Town of Pittston if it is found that strict application would result in undue hardship to the applicant. The term "undue hardship" shall mean:

1) The need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood;

2) The granting of a variance will not alter the essential character of the locality;

3) The hardship is not the result of action taken by the applicant or a prior owner; and

4) The land in question cannot yield a reasonable return unless a variance is granted.

A variance cannot be granted to build a dwelling on a non-conforming lot created after the effective date of this ordinance; nor can a variance be granted for building a dwelling on a back lot reached by a right-of-way less than twenty (20) feet wide if created after the effective date of this ordinance.

A variance is authorized only for dimensional requirements and for construction standards. The Board of Appeals may grant a variance for alternative construction materials provided the materials meet or exceed the standards outlined in Section III-2 through III-12 of this ordinance.

**Section II-4. ENFORCEMENT.**

Any person found guilty of violating any provision of this ordinance shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than twenty-five hundred dollars ($2,500.00) for such offense and the Selectmen, or Code Enforcement Officer as their agent, are authorized to seek injunctive relief. Each day in which a violation is proved to exist shall constitute a separate offense under this section.
ARTICLE III. STANDARDS.

Section III-1. LOT STANDARDS.

No dwelling unit shall be constructed upon or moved to a lot or parcel of land with an area of less than 87,120 square feet (two acres) for each single family dwelling. Each residential lot shall have road frontage of not less than 200 feet. Mobile home parks are exempt from the standards, so long as they comply with the most recent edition of "Rules of the Department of Business Occupational and Professional Regulations relating to Mobile Home Parks".

No division of any parcel of land with an existing dwelling unit or other structure with plumbing shall be made which creates any lot size less than the two-acre requirement.

A) MINIMUM LOT SIZE.

1) SINGLE FAMILY DWELLINGS. Dwellings may be constructed or placed on lots of record created prior to the Special Town Meeting of August 15, 1977, if they meet the following standards:

<table>
<thead>
<tr>
<th>Lot Size</th>
<th>Road Frontage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single lots recorded prior to January 1, 1970</td>
<td>none*</td>
</tr>
<tr>
<td>Single lots recorded between January 1, 1970, and June 24, 1974 Sq.Ft.#</td>
<td>20,000</td>
</tr>
<tr>
<td>Single lots recorded between June 24, 1974 and August 15, 1977 one acre</td>
<td>150 feet</td>
</tr>
<tr>
<td>Subdivision lots approved by Pittston Planning Board prior to August 15, 1977 one acre</td>
<td>150 feet</td>
</tr>
</tbody>
</table>

*Proof of Plumbing permit and adequate water supply required.

#State requirement under Minimum Lot Size Law, Title 12 M.R.S.A., Section 4807 A-G.

2) MULTI-FAMILY DWELLINGS AND CONDOMINIUMS. The following standards shall be met for more than one dwelling unit on a single lot:

- Each single family dwelling 2 acres
- Duplex (one building with two (2) dwelling units 3 acres
Multiple dwellings, apartment houses or condominiums

2 acres for first unit plus one (1) acre for each additional dwelling unit in all buildings.

3) ROOMING HOUSES, BOARDING HOUSES, MOTELS AND HOTELS.
The minimum lot size shall be based on the number of rooms to be rented. The lot size shall be two acres for a maximum of two rooms to be rented. An additional one-quarter acre is required for each additional rental room.

4) ANY BUILDINGS WITH PLUMBING. The minimum lot size shall be two acres if toilet facilities are provided for employees or customers.

B) SETBACK. If the width of the right-of-way of a road can be determined from Maine Department of Transportation road surveys, the setback for any structure shall be at least thirty-five (35) feet from that street or road right-of-way. If no recorded right-of-way can be determined, the setback for any structure shall be sixty (60) feet from the center of the road.

C) SIDE YARD WIDTH. No structure shall be less than 20 feet from any adjoining lot line.

D) ACCESS.

1) Frontage. All newly-created dwelling lots situated on an existing or proposed street or road shall have 200 feet of frontage.

2) Back Lots. Back lots which do not front on a street or road shall meet the following requirements:

   a. Single Lots. A back lot may be used for one single family dwelling or other permitted single use if it is accessible by a right-of-way at least twenty feet wide.

   b. Subdivision. Back lots shall not be subdivided unless an access road meeting the Town's Road Ordinance (50 foot right-of-way) extends (or is proposed to extend) to the subdivision. Each proposed subdivision lot shall meet the frontage requirement of this ordinance.

E. DRIVEWAYS. Each lot on which a dwelling is placed shall be provided with a driveway of not less than ten (10) feet in width with a well-drained, stabilized or paved surface and shall have a culvert where crossing any existing surface drainage facility.
F. OFF-STREET PARKING. Off-street parking shall be provided in the amount of 350-square feet per dwelling unit. This may be accomplished by a driveway space, garage space, or parking lot space, or any combination of the three.

G) PLACEMENT OF MOBILE HOMES (OTHER THAN IN MOBILE HOME PARKS). Prior to transportation of any mobile home into and/or within the Town of Pittston for purpose of placement and/or installation in said town the following procedures shall be followed in sequence indicated:

1) Soil test at permanent site.
2) Installation and inspection of septic system.
3) Construction and inspection of approved pad. Pad to be poured concrete or gravel of size equal to or greater than the mobile home.
4) Procurement of building permit to transmit mobile home into and/or installing said mobile home. Permit to be obtained from the Building Inspector.
5) Inspection of water, plumbing and electrical systems after mobile home has been moved onto site and has been connected to all above systems.

Section III-2. FOUNDATIONS.

Except when erected upon solid rock or equivalent, all dwellings shall be set on an approved foundation carried one (1) foot below frost line, upon an approved, poured, and reinforced concrete slab or upon an approved all-weather wood foundation. Post foundations of concrete with appropriate concrete pads of footings shall extend not less than one foot below the frost line. Foundations and concrete slabs shall rest upon solid ground or leveled rock, or on piles or ranging timbers when solid earth or rock are not found. Masonry foundation walls shall be not less than eight (8) inches thick, and shall be supported by concrete footings sufficient to satisfy ground loadability conditions. Provisions shall be made for drainage when basements (cellars) or partial basements are constructed.

Section III-3. MINIMUM CONSTRUCTION STANDARDS.

All building materials used and practices followed in the construction of all buildings shall be of such character as to assure a safe and durable structure. Any structure shall meet the minimum standards of the National Fire Prevention Association - Life Safety Code Handbook (NFPA-LSC) for Residential, Multi-family, or Commercial structures. A copy of this code shall be kept at the Town Office.
a) All waste material and rubbish, particularly flammable materials, shall be removed as rapidly as practicable.

b) Land contouring and grading or suitable erosion control shall be completed in a timely fashion to prevent loss of topsoil, surface erosion, and to establish proper drainage patterns.

Section III-4. EXTERIOR FINISH.

The exterior walls of all buildings shall be finished with a covering of clapboards, wood, metal, or vinyl siding, wood or asphalt shingles, masonry, brick, stone or other materials specified by the NFPA - Life Safety Code. Such coverings shall be completed within one (1) year after the outside studding is in place.

Section III-5. ROOF COVERING.

The roof of any building shall be covered with non-combustible or fire-resistant roofing materials.

Section III-6. MINIMUM FLOOR AREA.

No dwelling shall be constructed that will enclose an area of less than 600 square feet of living space. "Living space" shall mean actual space suitable for year-round occupancy and shall not include porches, patios, and similar areas whether or not enclosed.

Section III-7. CHIMNEYS.

All chimneys shall meet the specifications of the NFPA - Life Safety Code.

Section III-8. SMOKEPIPES.


Section III-9. FIREPLACES.

All fireplaces shall meet with the Specifications of the NFPA-Life Safety Code.

Section III-10. ELECTRICAL INSTALLATION.

Electrical service shall meet the requirements of 30-A M.R.S.A. §4161, concerning electrical installations.
Section III-11. SANITATION.

All plumbing and sewage disposal shall be in strict conformance with the State Plumbing Code. The Plumbing Inspector shall inspect the sewage disposal system a minimum of 3 times, once before installation, once during installation, and once when the installation of the system is complete. The plumbing permit shall be signed and dated at each inspection.

A) WATER SUPPLY. In areas where public water supplies are not available there shall be completed on the dwelling lot an adequate well or other permanent type water supply system to continuously service the proposed dwelling, and said water system shall meet the minimum requirements of State Department of Human Services regulations.

B) SANITARY FIXTURES. Each dwelling unit shall be provided with not less than one toilet or privy meeting current State Plumbing Code standards and with one kitchen sink piped with cold water.

C) PRIVY VAULTS. Privy vaults and similar systems must conform to the State Plumbing Code.

D) LIGHT AND VENTILATION. Bathrooms and water closet compartments not vented by a window shall have a skylight or a connection to vent or shaft extending through the roof, or be provided with some type of mechanical ventilation conforming to applicable standards in the State Plumbing Code.

Section III-12. CELLARS AS DWELLINGS.

A cellar may be occupied as a dwelling, if it has two means of egress, for one year from the date that the occupancy of the cellar begins.

Section III-13. ELIMINATION OF HAZARD.

Any abandoned cellar hole, trenches or dug wells that become hazardous shall be properly covered or filled to the level of the surrounding terrain within ten (10) days of notification to the occupant by the Code Enforcement Officer.

ARTICLE IV. DEFINITIONS.

Accessory building. A structure which is customarily both incidental and subordinate to the principal structure, including but not limited to garages, workshops, woodsheds, and barns.

Addition. Any increase in the outside dimensions of a structure.
Alteration. Any change in the existing structural members of a building, such as bearing walls, columns, beams, or girders.

Approved. The term "approved" shall mean approved by the Building Inspector of the Town of Pittston.

Back Lot. A lot which lacks frontage on a street or road and is accessible only by a private right-of-way. All contiguous lots in the same ownership shall be considered one lot. A back lot may also be called a rear lot.

Building. A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

Cellar. A portion of the building partly underground, but having half or more of its clear height below average grade of the adjoining land.

Dwelling. A structure containing one or more dwelling units.

Dwelling Unit. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall include mobile homes but shall not include travel trailers or recreational vehicles.

Lot. A parcel of land in single, joint, or common ownership by the same person(s) as indicated by deeds, surveys or similar legal instruments. One lot may consist of two or more contiguous lots of record.

Lot Area. The total horizontal area with the lot lines.

Lot of record. A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds or in common use by Town or County Officials.

Mobile Home. A structure designed as a dwelling unit to be transported on its own wheels which is provided with plumbing and electrical connections so that it can be used as a dwelling on a permanent site. To be a mobile home instead of a travel trailer or camper, it must contain at least 450 square feet of floor area and sleeping accommodations, a toilet, a tub or shower bath and kitchen facilities, including major appliances.

Multi-family Dwelling. A building or structure containing more than one dwelling unit as defined in this ordinance.

Non-Conforming Structure. A structure which does not comply with this ordinance, but which did comply with the ordinances in effect at the time of its construction, placement, or substantial improvement.
Residential Lot. A lot on which one or more dwelling units are or will be located.

Setback. The minimum horizontal distance from a lot line to the nearest part of a structure.

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground (except a post, fence, dry stone wall, driveway, or private road).

Substantial Improvement. Any improvement to a structure which could reasonably be expected to increase the structure's fair market value by 25% or more.

Use. The purpose for which land or a structure is arranged, designed or intended, or for which land or a structure is or may be occupied.
BUSINESS DEVELOPMENT ORDINANCE OF
THE TOWN OF PITTSTON

Section 1. Purpose

The purpose of this ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Pittston, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving businesses within the Town of Pittston, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed businesses will meet the guidelines of Title 30, M.R.S.A., Section 1917.

Section 2. Authority and Administration

A. Authority: This Ordinance is adopted pursuant to and consistent with Title 30 M.R.S.A., Section 1917, and may be known and cited as the "Business Development Ordinance of the Town of Pittston".

B. Administration: The Planning Board of the Town of Pittston shall administer this Ordinance. The Code Enforcement Officer of the Town of Pittston will enforce all provisions of this Ordinance. The provisions of the Ordinance shall apply to all of the land area of all developments, as defined, located in the Town of Pittston.

Section 3. Definitions

As used in this Ordinance, unless the context otherwise indicates, the following words shall have the following meaning:

A. Commercial Development: Commercial development shall refer to all buildings, or Parts thereof, parking lots or any other exterior facilities utilized for, or related to, The buying and/or selling of goods and services.

B. Industrial Development: Industrial development shall refer to buildings, or parts thereof, parking lots, storage areas, gravel or borrow pits, quarries, mines, roads, pipe lines, electrical transmission lines, and any other exterior facilities or equipment, whether mobile or stationary, involved in the manufacture of a product, in the extraction of processing of any materials utilized in the manufacture or construction of a product, or in the transportation or transmission or any such materials or products.

C. Institutional Development: Institutional development shall refer to such things as schools, municipal and government buildings, waste disposal facilities, nursing homes, hospitals, playing fields, parking lots and other outdoor facilities adjacent thereto, and shall include any public facility involving land, buildings, or structures of any kind.
D. **Residential Based or Stand Alone Business:** Any business inside a residence or in an onsite structure that is under 2,250 square feet, related to, the buying and or selling of goods and services.

E. **Abutter:** One whose property abuts, is contiguous, or joins the applicant’s property at a border or boundary, including the property across the street, road, public way or private way.

**Section 4. Applicability**

A. This Ordinance shall apply to all new and/or expanded commercial, industrial, institutional, residential based development in the Town of Pittston.

B. No new and/or expanded business development shall commence in the Town of Pittston unless and until a business development application has been reviewed and approved by the Planning Board.

**Section 5. Procedures**

5.1 The purpose of this section and Sections 5 through 16 is to establish an orderly equitable and expeditious procedure for reviewing proposed Business Development.

5.2 **Agenda.** In order to avoid unnecessary delays in processing applications for Business Development, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants will request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Planning Board Secretary. Applicants who attend a meeting and who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes.

5.3 All fees must be paid prior to being put on the agenda with the completed application. (See fee schedule attached at end of Ordinance)

5.4 Within 30 days of receipt of an application, the Board will notify the applicant whether or not the application is complete, and what, if any, additional submissions are required for a completed application.

5.5 No binding commitments shall be made between the applicant and the Planning Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

5.6 The Planning Board shall schedule an on-site inspection and public hearing.
Section 6. Pre-application Conference

6.1 Procedure.
   A. Applicant presentation and submission of draft plans.

   B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.

   C. Scheduling of on-site inspection and public hearing.

6.2 Submission. The pre-application draft plan will show, in simple sketch form, the proposed layout of roads, buildings and other features in relation to existing conditions. The draft plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed business development.

6.3 Rights not vested. The submittal or review of the pre-application draft plan will not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., 302.

6.4 The applicant will provide the Board with a complete list with name(s) and current mailing addresses of all abutting property owners.

Section 7. Application, Site Inspection & Public Hearing

7.1 Before scheduling a site inspection and public hearing under this ordinance, all applicable fees must be paid and a list of abutters provided to the Board by the applicant. The Board will publish notice of the site inspection and public hearing at least ten days in advance in a local newspaper, the Town’s web site and three public places in the Town of Pittston.

7.2 The Board will notify, by certified mail, the applicant and all abutters of the proposed Business Development, including owners of property on the opposite side of the road/street, at least ten days in advance of the site walk and public hearing, with the time and place of the site walk and public hearing.

7.3 The owners of property will be considered to be those to whom property taxes are assessed. Failure of any property owner to receive a notice of site walk and public hearing will not necessitate another site walk or hearing or invalidate any action by the Board.

7.4 At any public hearing, an applicant may be represented by an agent or attorney. Public hearings will not be continued to another time without good cause.
7.5 The applicant will be heard first. To maintain orderly procedure, each side will proceed without interruption. Questions may be asked through the Chair of the Board. All persons at the hearing will abide by the order of the Boards Chair.

7.6 Within 60 days of the public hearing, the Planning Board will reach a decision on the proposed Business Development, and will inform the applicant, Select Board, Code Enforcement Officer and/or Building Inspector in writing within seven days of its decision, stating finding of fact. The Board will prepare written findings of fact, based on all evidence presented, as well as its conclusions and the reasons.

7.7 No changes in an approved plan may be made, and no activities may be undertaken which deviate from an approved plan, first approved in writing by the Planning Board.

7.8 The Planning Board may modify or waive any of the below application requirements or performance standards when the Planning Board determines that because of the small size (less than 2,250 square feet) of the project such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not unreasonably affect the abutting landowners and the general health, safety and welfare of the Town.

Section 8. Exemptions

The following developments are exempt from all provisions of this Ordinance.

A. Construction of barns, stables, and other agricultural related buildings by, and for the private use of, families residing on the property on which the building is to be located.

B. All non-structural uses of land for agricultural or forestry purposes.

Section 9. Business Application:

The Business Development application shall consist of the following items and information unless waived in writing by the Planning Board.

A. Map or maps prepared at a scale of not less than 1 inch to 100 feet, and which shall Include:
   1. Name and address of the applicant or his authorized agent and name, if any, of the proposed business development.
   2. Municipal tax maps and lot number, if any, and names and addresses of abutting landowners.
3. Perimeter survey is required for a class 3, major project development, of the parcel made and must include certification by a registered land surveyor relating to reference points, showing magnetic north point, graphic scale, corners of parcel and date of survey and total acreage.

4. Existing and proposed location and any dimensions of utility lines, sewer lines, water line easements, drainage ways and public or private rights-of-way.

5. Location, ground floor area and elevations of buildings and other structures existing and proposed along with the approximate location of building(s) or other structures on parcels abutting the site.


7. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading facilities, design of ingress and egress of vehicles to and from the site onto public streets or roads, and curb and sidewalk lines.

8. Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening.

9. Erosion and sedimentation control plan when applicable.

10. An estimate of the time period required for completion of the structural phases of the development.

11. Any other information as deemed necessary by the Planning Board to indicate the physical characteristics of the proposed business development.

**Section 10. Standards**

In order to be approvable, a development application must meet the following requirements:

A. **Preservation and Enhancement of the Landscape:** The landscape shall be preserved in its natural state in so far as practicable, by minimizing tree and soil removal, and retaining existing vegetation where desirable during construction. After construction is completed, landscaping will enhance the physical design of the building(s) or site, and will minimize the encroachment of the proposed use on neighboring land uses.

B. **Relation of Proposed Development to the Environment:** Proposed business developments shall be related harmoniously to the terrain and existing natural features, and to existing buildings, facilities and land uses in the vicinity of the business development. A business development shall not impair, disturb or displace any rare or endangered form of animal or plant life; nor shall it destroy or impair any animal habitat that could be avoided by modification of the proposed business development.

C. **Air Quality:** The business development shall not detrimentally increase the concentration of any gases, particulate matter, odors or other substrates in the air of the Town of Pittston.
D. **Water Quality**: The business development shall not contaminate or excessively deplete any ground or surface water source.

E. **Noise Level**: The business development shall not raise noise levels to the extent that abutting or nearby property owners are excessively inconvenienced or harmed in any way. (See appendix A at end of ordinance.)

F. **Vehicular Access**: The proposed site layout shall give consideration to the location, number, and control of access points, and to the adequacy of adjacent street, sight distances, turning lanes and parking areas. All entrances shall comply with the State of Maine and the Town of Pittston “Entrance Ordinance.”

G. **Surface Water Drainage**: Adequate provision shall be made for surface drainage so that runoff of surface water from the site will not adversely affect neighboring properties and downstream conditions.

H. **General Conditions**: The development shall not place an unreasonable burden on the general health, welfare, safety, or convenience of the citizens of Pittston; nor shall it unreasonably alter the ability of the citizens to administer the Town’s educational and other municipal facilities and services.

I. **Utilities**: The development shall not impose a burden upon public utilities which could be avoided by modification in the development.

J. **Advertising Features**: The size, location, and lighting of all exterior signs and outdoor advertising shall not detract from the design of the proposed building(s) and structure(s), or from surrounding properties.

K. **Special Features**: Exposed storage areas, soil, gravel or rock extraction areas, exposed machinery, service areas, truck loading areas, pipe lines or electrical transmission lines, utility buildings and other structures shall be subject to such setbacks, screen plantings or other screening methods to prevent them from detracting from surrounding properties. Utility buildings and all other structures shall have siding that is residential in appearance including clapboard siding in wood, metal or vinyl, shingles or shakes, board and batten and other sidings commonly found on site-built housing. In all cases, new buildings and building additions shall be set back a minimum of 20 feet from all public or private road right-of-way property lines, and no part of any new building shall be closer than 20 feet to any property line.

L. **Exterior Lighting**: All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

M. **Emergency Vehicle Access**: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings, structures and applicable facilities at all times.
Section 11. Loss of Structure

Any building, facility or structure destroyed by fire, accident or other “Acts of God” may be replaced so long as replacement is underway within 2 years and completed within 3 years of the original loss date of the general commercial, industrial, institutional, or residential purposes of the original building, facility or structure are retained.

Section 12. General Provisions

A. Waiver and Modification of this Ordinance:

1. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, or where the proposed activity is subject to the provisions of another ordinance for the Town of Pittston where the requirements of that ordinance would essentially duplicate the requirements of this Ordinance, it may waive any provision of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance or regulation.

2. In granting any waiver, the Planning Board shall state in writing, the Conditions for which the waiver was granted.

Section 13. Validity, Effective Date, Conflict of Ordinances

A. Validity: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.

B. Effective Date:

C. Conflict of Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health, welfare or safety, the provisions of this Ordinance shall prevail.
Section 14. Appeal

If the Planning Board shall disapprove an application or grant approval with conditions that are objectionable to any person, affected directly or indirectly, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of this Ordinance have been misconstrued or wrongfully interpreted, any person, affected directly or indirectly, may appeal in writing from the decision of the Planning Board to the Pittston Board of Appeals. Said appeal must be made within 30 days of the Planning Board's written decision.

Section 15. Amendments

This Ordinance may be amended by a majority vote in a special or regular Town Meeting of Pittston.

Section 16. Enforcement

A. The Code Enforcement Office of the Town of Pittston shall act in all cases of violations of this Ordinance by notifying, in writing, the owner and the lessor (if any) of the Business Development and the Select-Board of the kind or nature of the violation and the correction of same if possible. Said notification shall be deemed to have been made when sent to the owner and the lessor (if any) by certified mail.

B. The Select Board is charged with the prosecution for all violations of the provisions of this Ordinance. In cases where such notices referred to in Paragraph 16A, above, are not promptly complied with after receipt of said notices, the Select Board shall make such complaints to the courts as, in their judgment, are proper, or may institute such actions or proceedings at law or in equity as are proper to restrain, correct, remove, or punish such violations.

C. Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof shall, upon conviction, be punished by a fine of not less than $25 and not more than $100 a day on which each violations continues. Each shall constitute a separate offense.
Appendix A
Noise

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat, frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent sound produced by any activity regulated by this ordinance shall be as established by the time period be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four feet above the ground surface.

<table>
<thead>
<tr>
<th>Sound pressure level limit</th>
<th>7AM-8PM</th>
<th>8PM-7AM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activities outside</td>
<td>50 dB (A)</td>
<td>45 dB(A)</td>
</tr>
<tr>
<td>Industrial locations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Activities within</td>
<td>60 dB (A)</td>
<td>55 dB(A)</td>
</tr>
<tr>
<td>Industrial locations</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The following uses and activities shall be exempt from the sound pressure level regulations.
1. Noises created by construction and temporary maintenance activities between 7AM and 7PM.
2. The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity.
3. Traffic noise on public or private roads, driveways, or railroads.

In interpreting the decibel ratings in the Noise Performance standards of this ordinance, it is helpful to understand that when two noises of say 70 dB A (as from two vacuum cleaners) are present, the total noise level is 73 dB a, not 140 dB A. In other words, 73 dB A represents twice as much noise generation (or sound pressure) as 70 dB A. This is because the decibel scale is logarithmic, and not an arithmetic or linear scale. Because the range of sound intensities is so great, it is convenient to compress the scale logarithmically.Sharply painful noise is 10 million times greater in sound pressure level than the least audible sound. In decibels, this 10 million to 1 ratio is simplified logarithmically to 140 dB A.

The following table provides a layman’s guide to understanding how various decibel levels relate to ordinary noises most people are familiar with:

<table>
<thead>
<tr>
<th>Decibels</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>35</td>
<td>Average outdoor noise level in undeveloped woodland, or average indoor nighttime noises (11 PM- 6 AM) in suburban area with windows closed.</td>
</tr>
<tr>
<td>40</td>
<td>Average day-night outdoor noise level in rural residential area.</td>
</tr>
</tbody>
</table>
Average outdoor daytime background house level on a typical suburban street. (not including nearby traffic or aircraft)

Large transformers at 100 feet

Air conditioner at 100 feet, or average outdoor day-night noise in old urban residential area

Outdoor noise of a family car passing through a quiet suburban street.

Air conditioner (window unit) at 6 to 10 feet.

vacuum cleaner

Outdoor noises of a sports car driving along a quiet street.

Expressway traffic at 50 feet from pavement.

Garbage disposal, or heavy city traffic

Diesel truck going 40mph at 50 feet, or a diesel train going 45 mph at 100 feet.

Power lawn mower at source

Motorcycle at 25 feet.

Boeing 737 at 6000 feet before landing

Rock n’ Roll band

Gasoline powered chain saw at source when cutting.

A good standard of noise within dwellings with the windows closed is 45dB A in daytime and 35 dB A at night. Closing windows usually reduces outside noise by about 10 dB A. The highest noise level that permits relaxed conversation indoors is 45 dB A. People tend to raise their voices in order to be heard, when the background noise exceeds 45-50 dB A.
We hereby certify that the forgoing is a true copy of the Business Development Ordinance of the Town of Pittston as enacted at the Special Town Meeting on 1/31/2018

Given under our hands this day of

__________________________
Roger Linton, Selectperson

__________________________
Mary Jean Ambrose, Selectperson

__________________________
Gregory Lumbert, Selectperson

Attest:

__________________________
Deborah Barry, Town Clerk
Town of Pittston, Maine

Date:
TOWN OF PITTSTON
CABLE TELEVISION RATE REGULATION ORDINANCE

ARTICLE 1: GENERAL

1.1 Short Title

This Ordinance shall be known as the "Pittston Cable Television Rate Regulation Ordinance" and will be referred to herein as "this Ordinance".

1.2 Purpose

The purpose of this Ordinance is to implement the authority conferred on cable television franchising authorities to regulate Basic Service Rates and Charges.

1.3 Authority

This Ordinance is enacted pursuant to the Cable Television and Consumer Protection and Competition Act of 1992, as amended; pursuant to regulations adopted by the Federal Communications Commission ("FCC"), including but not limited to the "FCC Rate Regulations" as defined herein; and pursuant to 30-A.M.R.S.A. ss 3001, as amended.

1.4 Validity and Severability

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

1.5 Effective Date

This Ordinance shall become effective immediately upon its approval by the municipal officers.

ARTICLE 2: DEFINITIONS

2.1 Basic Service Rates and Charges:

Basic Service Tier rates and the charges for related equipment, installation and services which, pursuant to federal laws and regulations, may be regulated by franchising authorities.
2.2 Basic Service Tier:

That tier of cable television service which contains, at a minimum, all local broadcast signals and the public, educational and governmental channels required by the franchise agreement. Provided that the contents of this tier meet this definition, the Cable Operator may, in its sole discretion, determine what (if any) additional service will be provided as part of this tier.

2.3 Benchmark Approach:

That theory of rate regulation which sets rates based upon "benchmarks" established by the FCC.

2.4 Cable Operator:

Any cable television system operating with the Town of Pittston.

2.5 Cost-of-service Approach:

That theory of rate regulation, to be initiated only by the Cable Operator, which allows the Cable Operator to charge rates in excess of the FCC benchmark rates upon a showing that the cost of providing cable service exceeds the benchmark rate.

2.6 FCC: The Federal Communications Commission.

2.7 FCC Rate Regulations:


2.8 Franchising Authority:

The Town of Pittston, acting pursuant to its authority under federal, state and local laws and regulations to authorize and oversee the provision of cable television service in Pittston.

ARTICLE 3: RATE SETTING PROCEDURES

3.1 Cable Operator Submission

Within 30 days of the date of the notice from the Franchising Authority to the Cable Operator, the Cable Operator shall file its rate justification with the Franchising Authority.
3.2 Franchising Authority Response

The Franchising Authority shall make a decision on the rate request within 30 days after the Cable Operator submits its rate justification. The rates proposed by the Cable Operator shall automatically take effect after that 30-day period unless the Franchising Authority issues a statement that it needs additional time to make its decision.

If the Franchising Authority decides that it needs longer than the initial 30-day period to consider the rate request, it may issue a statement to that effect. Such statement may provide for up to 90 additional days to review a rate request based upon a benchmark approach and up to 150 additional days to review a rate request based upon a cost of service approach.

If the Franchising Authority cannot reach a decision by the end of the extended period set forth in the preceding paragraph, the rates proposed by the Cable Operator shall go into effect, subject to refund. If the Franchising Authority intends to seek refunds, it shall issue an Order to the Cable Operator prior to expiration of the time period for response, notifying the Cable Operator to keep accurate records with respect to rates.

3.3 Public Hearing Required

A public hearing shall be held in connection with every rate setting proceeding. At least 10 days prior to the hearing date, the Town Clerk shall publish a notice of the hearing in a newspaper of general circulation in the Town of Pittston. The notice shall identify the name of the Cable Operator, indicate that a rate change has been requested, and identify the time and place of the public hearing.

3.4 Proprietary Information

The Franchising Authority may require the Cable Operator to furnish proprietary information in connection with any rate setting proceeding.

3.5 Calculation of Rates and Refunds

In setting Basic Tier Rates and Charges, and in setting any refunds, the Franchising Authority shall be governed by the FCC Rate Regulations as amended. The FCC Rate Regulations shall govern notwithstanding any different or inconsistent provisions in the Franchise Agreement.

3.6 Decision of Franchising Authority

The Franchising Authority shall issue a written rate decision with appropriate findings and conclusions if the Franchising Authority:

a. disapproves, in whole or in part, the initial rate schedule or a proposed rate increase; or
b. approves the initial rate or proposed rate increase over the objection of an interested party.

Public notice must be given of any such written decision, which shall include release of the text of the written decision to the public.

No written decision shall be required to approve an unopposed existing or proposed rate.
3.7 Appeals

The FCC shall have exclusive jurisdiction to hear appeals challenging whether the Franchising Authority's decision is consistent with the 1992 Cable Act or any applicable FCC rules. Any participant in a Franchising Authority's rate regulation proceeding may appeal the Franchising Authority's decision on such grounds to the FCC within 30 days of release of the public notice required under Article 4.6 of this Ordinance.

Appeals on grounds other than those stated in the preceding paragraph shall be made to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

ARTICLE 4: EXECUTION OF DOCUMENTS

4.1 Authority conferred

The Chair of the Board of Selectmen, or his or her designee, is authorized to execute on behalf of the Town and file with the FCC such certifications, forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the Town to regulate Basic Service Rates and Charges.

ARTICLE 5: AMENDMENT

This Ordinance may be amended by the Municipal Officers following public hearing.

ARTICLE 6: FEDERAL LAW PREEMPTION

To the extent that any provision of this Ordinance is inconsistent with federal law or regulations now in effect or which may be later adopted, federal law shall govern.

Approved by the Municipal Officers this 20th day of April, 1997.
Emergency Management Ordinance of the Town of Pittston

1. Short Title: This Ordinance shall be known and may be cited and referred to as the "Emergency Management Ordinance of the Town of Pittston". 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 Kennebec County Emergency Management Agency.

3. Establishment: The Pittston Office of Emergency Management (OEMO) and the position of Emergency Management Director for the town of Pittston is hereby created. The Selectmen may appoint additional OEM staff members, as needed.

4. Appointment, Term, and Removal: The Selectmen shall appoint the EMD. This appointment shall be annual and made by June 1st of each year. The Selectmen 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 Pittston Emergency Operations Plan.
   C. Organize, activate, and operate the Pittston Emergency Operations Center (EOC).
   D. Prepare and maintain a list of disaster resources.
   E. Develop procedures for the operation of the Pittston EOC.
   F. Coordinate and maintain written disaster Mutual Aid Agreements with the approval of the Selectmen.
   G. Provide Emergency Management training to town officials, planners, and responders.
   H. Develop and implement a Disaster Exercise program.
   I. Attend County and Local Emergency Managers meetings.
   J. Provide Disaster Preparedness information to town residents.
   K. Complete and report Damage Assessments to KEMA.
   L. Complete and submit applications for FEMA disaster funds and grants.

7. Membership of the Emergency Operations Center: When directed by any one of the Selectmen or by the EMD, the EOC will be established and manned. At the discretion of the Selectmen or EMD, the following town officials may be included on the EOC staff:
   - Selectmen
   - Emergency Management Director
   - Town Clerk and Town Treasurer
   - Code Enforcement Officer
   - Town Constable
   - Fire Chief or Deputy
   - Fire Warden
   - Road Commissioner
   - Animal Control Officer
   - Administrative Assistant
8. **Establishment of the National Incident Management System:** The Town of Pittston 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 personnel qualifications standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters. The NIMS Incident Command System (ICS) will be utilized by all Pittston emergency and disaster responders 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 as provided by the Kennebec County Emergency Management Agency (KEMA), Maine Emergency Management Agency (MEMA), and FEMA.

**Websites**

Maine Emergency Management - www.maine.gov/mema

Federal Emergency Management Authority - www.fema.gov/fima

**ATTEST**

Dated August 2, 2006

[Signatures]

Town Clerk

[Signatures]

[Signatures]
MUNICIPALITY OF PITTSSTON MAINE

ORDINANCE
EXEMPTING ELIGIBLE ACTIVE DUTY MILITARY PERSONNEL FROM VEHICLE EXCISE TAX

Section 1. Authority.

This ordinance is enacted pursuant to 36 M.R.S.A. § 1483-A, which expressly authorizes such ordinances.

Section 2. Excise tax exemption; qualifications.

Vehicles owned by a resident of this municipality who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post-station or base outside this State or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle(s) in this State are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. § 1482.

To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces.

For purposes of this section, "deployed for military service" has the same meaning as in 26 M.R.S.A. § 814(1)(A).

For purposes of this section, "vehicle" has the same meaning as in 36 M.R.S.A. § 1481(5) and does not include any snowmobiles as defined in 12 M.R.S.A. § 13001.

Section 3. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect unless and until it or 36 M.R.S.A. § 1483-A is repealed.
FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF PITTSTON, MAINE

ENACTED:

Date

CERTIFIED BY:

Name

Title

Affix Seal

60.3 (d)
Printed 04/24/98
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60.3 (c&d) Rev. 8/97
ARTICLE I - PURPOSE AND ESTABLISHMENT

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

Therefore, the Town of Pittston, 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 the attached Floodplain Management Ordinance.

It is the intent of the Town of Pittston, 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.

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407.

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

The areas of special flood hazard, Zones A and AE, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Pittston, Maine, Kennebec County," dated April 6, 1998 with accompanying "Flood Insurance Rate Map" dated April 6, 1998 is hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:
A. The name, address and phone number of the applicant, owner, and contractor;
B. An address and a map indicating the location of the construction site;
C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
D. A statement of the intended use of the structure and/or development;
E. A statement of the cost of the development including all materials and labor;
F. A statement as to the type of sewage system proposed;
G. Specification of dimensions of the proposed structure and/or development;
[Items H-K apply only to new construction and substantial improvements.]
H. 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 at the proposed site of all new or substantially improved structures, which is determined:
      a. in Zone AE, from data contained in the "Flood Insurance Study - Town of Pittston, Maine," as described in Article I; or,
      b. in Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
   2. highest and lowest grades at the site adjacent to the walls of the proposed building;
   3. lowest floor, including basement; and whether or not such structures contain a basement; and,
   4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
I. A description of an elevation reference point established on the site of all new or substantially improved structures;
J. A written certification by a Professional Land Surveyor that the elevations shown on the application are accurate;
K. Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4; Article VI.G.; and other applicable standards in Article VI;
L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

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

**ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of $50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

**ARTICLE V - REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Planning Board shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Study - Town of Pittston, Maine," as described in Article I. In special flood hazard areas where base flood elevation data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Article III.H.1.b.; Article VI.J.; and Article VIII.D., in order to administer Article VI of this Ordinance;

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. Issue one of the following Flood Hazard Development Permits based on the type of development:

1. Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. Issue a Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. Issue a Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: 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, towers, fencing, and pipelines.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:
A. New construction or substantial improvement of any structure and all other development shall:

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

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

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

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

E. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.

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

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

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

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
   a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

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

a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

H. New or substantially improved manufactured homes located within:

1. Zone AE shall:

a. be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation; and,

b. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

(1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

(2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(3) All components of the anchoring system described in Article VI, paragraph H.1.b.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

a. be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and
I. Recreational Vehicles located within:

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

J. Floodways

1. In Zone AE, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in riverine areas, for which a regulatory floodway is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zone AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
   a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
   b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/ January 1995, as amended).

3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain. Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical
evaluation certified by a registered professional engineer is provided meeting the requirements of Article VI.J.2.a.&b.

K. New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspace may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII; and,

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
   a. be certified by a registered professional engineer or architect; or,
   b. meet or exceed the following minimum criteria:
      (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
      (2) the bottom of all openings shall be no higher than one foot above the lowest grade; and,
      (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and,

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

A. For New Construction or Substantial Improvement of any structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:
   1. review the Elevation Certificate and the applicant’s written notification; and,
   2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.

E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with Article VI of this ordinance and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Pittston may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Planning Board/Code Enforcement Officer in the administration of the provisions of this Ordinance. The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:
A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

   a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

   b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

   c. that the granting of a variance will not alter the essential character of the locality; and,

   d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Article IX and Article VI.J. are met; and,

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued by a community for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude
the structure's continued designation as a Historic Structure and the variance is
the minimum necessary to preserve the historic character and design of the
structure.

F. Any applicant who meets the criteria of Article IX, paragraphs A through E shall be
notified by the Board of Appeals in writing over the signature of the Chairman of the
Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will
result in greatly increased premium rates for flood insurance up to amounts as
high as $25 Per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property;
and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks
inherent in the use of land subject to flooding, assumes those risks and agrees to
indemnify and defend the municipality against any claims filed against it that are
related to the applicant's decision to use land located in a floodplain and that the
applicant individually releases the municipality from any claims the applicant
may have against the municipality that are related to the use of land located in a
floodplain.

G. The Board of Appeals shall submit to the Planning Board/Code Enforcement Officer a
report of all variance actions, including justification for the granting of the variance and
an authorization for the Planning Board to issue a Flood Hazard Development Permit,
which includes any conditions to be attached to said permit.

ARTICLE X - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this
Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this
ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a
violation exists, shall submit a declaration to the Administrator of the Federal Insurance
Administration requesting a denial of flood insurance. The valid declaration shall consist
of:

1. the name of the property owner and address or legal description of the property
   sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State
   or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Code Enforcement Officer - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Development - means 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.

Elevated Building - means a non-basement building

a. built, in the case of a building in Zones A1-30, AE, A, AO, or AH, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, AE, A, AO, or AH, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate - An official form (FEMA Form 81-31, 05/93, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

Flood or Flooding - means:

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

   1. The overflow of inland or tidal waters.
   2. The unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and
unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

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

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

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

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

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

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

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

**Floodway** - see Regulatory Floodway.

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

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

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

**Historic Structure** - means any structure that is:
a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   1. By an approved state program as determined by the Secretary of the Interior, or
   2. Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less that 50% of the market value of the structure. It includes, but is not limited to: 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, towers, fencing, and pipelines.

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

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

**Recreational Vehicle** - means a vehicle which is:

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

**Regulatory Floodway** -

a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

b. when not designated on the community’s Flood Insurance Rate Map 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.

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

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

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

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

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

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

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

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

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

**ARTICLE XIV - ABROGATION**

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

The Town/City of PITTSTON enacts the following General Assistance Ordinance. This Ordinance is filed with the Commissioner of the Department of Human Services in compliance with Title 22 M.R.S.A. § 4305.4.

Signed the SIXTH day of APRIL, 1986, by the municipal officers:

[Signatures]

Prepared by Maine Municipal Association

November 1987
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ARTICLE I

Statement of Policy

The Town/City of ______________ administers a program of general assistance available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided herein and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant and to encourage self-reliance. The program will help each person achieve self-maintenance and will encourage the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. General assistance will promote strengthening the family, especially with regard to the care and protection of children.

The general assistance program will place no restrictions on the personal rights of the applicant or recipient, nor will there be any discrimination based on sex, age, race, religion, handicap or political affiliation. The applicant or recipient will be informed of his/her rights and responsibilities under the general assistance program.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. Within 24 hours of receiving an application, the administrator will give the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also give the applicant written notice that if dissatisfied with the decision, he/she may appeal to the fair hearing authority. When an applicant is determined to be eligible, assistance will be furnished within 24 hours after the completed application is submitted.

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential.

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

ARTICLE II

Definitions

Section 2.1 Common meaning of words

Unless otherwise apparent or defined, all words in these Rules and Regulations will have their common meaning.

Section 2.2 Special definitions

a) Applicant. A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application.

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

c) Back bills. Any charge for goods and services that is more than 60 days old. (22 M.R.S.A. § 4306).

d) Basic necessities. Food, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, telephone where it is
necessary for medical reasons, and any other commodity or service determined essential by the municipality. (22 M.R.S.A. § 4301.1).

e) Case record. An official file containing an application form, correspondence, narrative records and all other communications pertaining to an applicant or recipient, determination of initial or subsequent eligibility, reasons for decisions and actions by the general assistance administrator, and types of assistance provided each recipient.

f) Categorical assistance. All State and Federal income maintenance programs.

g) Claimant. A person who has requested a fair hearing.

h) Dwelling unit. A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit. (22 M.R.S.A. § 4301.2).

i) Disabled person. A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician.

j) Eligible person. A person who is qualified to receive general assistance from the municipality, according to the standards of eligibility set forth in this ordinance. (22 M.R.S.A. § 4301.3).

k) Emergency. Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. (22 M.R.S.A. §§ 4301.4, 4308.2, 4310).

l) General assistance program. A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person has need and is found to be otherwise eligible to receive general assistance. (22 M.R.S.A. § 4301.5).

m) General assistance administrator. A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an overseer or an authorized agent such as a town manager, welfare director, or caseworker. (22 M.R.S.A. § 4301.12).

n) Household. One or more persons living together as a single economic unit who share basic necessities.

When the household consists of individuals who are not legally liable for the support of each other, such as roommates, only the applicant's income and his/her pro-rata share of expenses will be considered when determining eligibility. If income is pooled, however, the entire household's income and expenses will be considered in determining eligibility. Income from other household members will not be considered available to the applicant if there is no pooling of income. (22 M.R.S.A. § 4301.6).

o) Income. Any form of income in cash or in kind received by the household, including net remuneration for services performed, any payments received as an annuity, court ordered support payments, income from pension or trust funds and household income from any other source, including relatives or unrelated household members, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources, unless specifically prohibited by any law or regulation. (22 M.R.S.A. § 4301.7).

In determining need the period of time used as a basis for the calculation will be a 30-day period commencing on the date of application. This considera-
tion will not disqualify applicants who have used their income to purchase basic necessities provided that their income does not exceed the income standards established by the municipality.

The following will not be considered available income:

- Income property, tools of trade, governmental entitlement specifically treated as exempt (such as food stamps and fuel assistance) by state or federal law.
- Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, or union dues, transportation costs to and from work (not to exceed $.22 a mile), special equipment costs and child care expenses; or
- Income of children below the age of 18 years who are full-time students and who are not working full time.

p) Just cause. A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility. (22 M.R.S.A. §§ 4301.8, 4316-A.5).

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

r) Municipality of responsibility. The municipality which is liable for the support of an eligible person at the time of application. (22 M.R.S.A. §§ 4301.9, 4307).

s) Need. The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance. (22 M.R.S.A. §§ 4301.10, 4308).

t) Net general assistance costs. Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program. (22 M.R.S.A. §§ 4301.11, 4311).

u) Period of eligibility. The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month. (22 M.R.S.A. § 4309.1).

v) Real estate. Any land, buildings, homes, mobile homes and any other things affixed to the land. (22 M.R.S.A. § 4301.13).

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

x) Resident. A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (see Section 4.10 p. 8). (22 M.R.S.A. § 4307).

y) Resources. Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: available and potential. Available resources are programs, benefits or sources of help which are readily accessible to an applicant and which do not have a waiting period before the applicant can use the resource. Available resources include cash on hand, bank accounts, shelters, private organizations, etc. Potential resources are programs or services, usually administered by the government, which require people to apply in writing and wait a period while their eligibility is being determined, before they can receive any benefits. Because the applicant's eligibility must be determined and benefits are not available immediately, if at all, certain benefits are
considered potential resources. Potential resources include AFDC, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

ARTICLE III
Administrative Rules and Regulations

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

Section 3.1 Confidentiality of information

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

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

Fair hearing authority. If an applicant requests a fair hearing (see Article VIII, The Fair Hearing), the fair hearing authority will be given copies of the record prior to the hearing. The claimant will have access to information that is available to the hearing authority.

Information from other sources; penalty. Information furnished to the municipality by the Department of Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, concerning recipients of categorical assistance, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of records concerning prescriptions for narcotic drugs and records concerning birth, marriage and death. 22 M.R.S.A. § 2374 and 2706, respectively.

Any person who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than $25 nor more than $100. Any person, including the applicant, who willfully gives false information to the administrator is guilty of a Class E crime (22M.R.S.A. § 4314, 4315).

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

Section 3.2 Maintenance of records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4303). These records are necessary to:

a) provide a valid basis of accounting for municipal expenditures;

b) document and support decisions concerning an applicant or recipient; and

c) assure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

Case Records. The administrator will establish and maintain a separate case record for each applicant or recipient. Each case record will include at least the household's applications, budget sheets, information concerning the types and amounts of assisting provided, written decisions, any requests for fair hearings and the fair hearing authority decisions. The record may also in-
clude a narrative history documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status, the reason(s) for the release of confidential information, adjustments in aid and suspension or termination of eligibility.

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

ARTICLE IV
Application Procedure

Section 4.1 Right to apply
Who may apply. Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in an emergency as provided in Section 4.9 of this ordinance. The administrator may require a representative to present a signed statement documenting that he/she is in fact authorized. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. §§ 4305, 4308).

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

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

Applications accepted; posted notice. Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator, however, in an emergency the administrator will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

Section 4.2 Application interview
Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

Section 4.3 Contents of the application
The application will contain the following information:
  a) applicant's name, address, and phone number;
  b) names of other household members for whom the applicant is seeking assistance;
  c) name, address and phone number of the applicant's parents, children, grandparents, grandchildren, whether or not they are members of the household;
  d) total household number;
  e) employment information;
Section 4.4 General assistance administrator's responsibilities at the time of the application

Eligibility requirement. At the time of application, the administrator will inform the applicant of the eligibility requirements of the program and ask the applicant to provide all information and documentation necessary for the administrator to make a determination of eligibility (22 M.R.S.A. § 4309). This information will include:

a) the household income (see definition of household, p. 2);
b) any assets or resources available to the applicant, including personal property, real estate, and legally liable relatives;
c) employment information. If the applicant is unemployed due to a disability, the administrator will seek information regarding its nature and will recommend rehabilitative services when appropriate;
d) the amount and type of assistance requested.

Additional information. The administrator will also be responsible for informing the applicant about his/her responsibility to:

a) accurately report all information necessary to determine eligibility including any changes in the household's circumstances that materially affect eligibility during the applicant's period of eligibility and the penalty for false representation (22 M.R.S.A. § 4315);
b) seek and accept employment, including a work assignment by the municipality, and demonstrate that he/she is performing an active work search;
c) remain employed and not quit work without just cause;
d) make use of all available resources including, but not limited to, other government benefit programs and liable relatives of sufficient means; and
e) participate in a rehabilitation program, when appropriate, in order to diminish his/her need for general assistance. (22 M.R.S.A. §§ 4316-4317).
f) Other. The administrator will also be responsible for informing the applicant about resources which may help to improve his/her standard of living and make appropriate referrals to other government benefit programs, private organizations, employment educational, and rehabilitative services, budget counselling, and any other resources in the community.

Reimbursement. The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. In addition to seeking repayment from a recipient the municipality also may recover the amount of assistance granted to a recipient during the previous 6 months from any liable relative living or owning land in the state (father, mother, or grandparents). (See Article VII, Recovery of Expenses, p. 27). (22 M.R.S.A. §§ 4318, 4319).

Section 4.5 Responsibilities of the applicant at the time of application

The applicant has the following responsibilities at the time of each application:

a) to provide accurate, complete and current information and verification concerning his/her income, resources, assets, household, employment and any changes in this information that would affect his/her eligibility (22 M.R.S.A. § 4309);

b) to inform the administrator of the names and addresses of relatives who are liable for the applicant's support (22 M.R.S.A. §§ 4317, 4319);
c) to apply for and utilize any benefits or other resources that will reduce or eliminate his/her need for general assistance (22 M.R.S.A. § 4317).

Section 4.6 Action on applications

Written decision. The general assistance administrator will give a written decision to the applicant concerning his/her eligibility within 24 hours after he/she submits a written application and will furnish assistance to eligible applicants within that period (22 M.R.S.A. §§ 4305, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

Content. The written decision will contain the following information:

a) the type and amount of aid the applicant is eligible or ineligible to receive;

b) the specific reasons for the decision;

c) the applicant’s right to a fair hearing; and

d) the applicant’s right to notify the Department of Human Services if he/she believes the municipality has acted illegally. (22 M.R.S.A. § 4321).

Section 4.7 Withdrawal of an application

An application is considered withdrawn if:

a) the applicant requests in writing, that his/her application be withdrawn; or

b) the applicant refuses to complete or sign the application, or any other form needed by the general assistance administrator or if the applicant fails to provide necessary proof of eligibility requested by the administrator. (22 M.R.S.A. § 4309).

Section 4.8 Temporary refusal to accept application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications for 24 hours. Such circumstances may include, but are not limited to, the following:

a) when the applicant’s conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol, the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will be accepted when his/her conduct is under control;

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

Section 4.9 Emergencies

People who apply for assistance to alleviate an emergency will be granted assistance if they do not have sufficient resources to meet an actual emergency need for basic necessities, although they may be considered otherwise ineligible, except as provided below. (22 M.R.S.A. § 4308). An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household. (22 M.R.S.A. § 4301.4).

Disqualification. A person who is currently disqualified from receiving General Assistance due to a violation of Sections 5.5, 5.6, 5.7, or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4301.2(A)). Dependents of a disqualified person may be eligible for assistance. (22 M.R.S.A. § 4309.3).

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

a) after interviewing the applicant the administrator has determined that he/she will probably be eligible for assistance after a verification of information
is completed; and
b) the applicant submits documentation when possible, to verify his/her need.

The administrator may contact at least one other person to confirm the applicant’s statements about needing emergency assistance. No further assistance will be authorized until the applicant’s eligibility is confirmed (22 M.R.S.A. § 4310).

Telephone applications. If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and if there is no authorized representative who can apply for the applicant, the administrator will accept an application over the telephone.

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

Back bills. Each applicant is responsible for requesting assistance with bills that are current (i.e., bills received within the previous 60 days). The administrator will not grant assistance for an amount greater than one month unless:

a) the applicant receives the bill less often than monthly; or
b) it is an emergency. When a person requests emergency assistance to pay a bill for a basic necessity, when that bill is more than 2 months old, the applicant will be eligible for emergency assistance only if he/she did not have sufficient income, money, assets, or other resources available to pay for the basic necessity when the bill was received. The applicant shall provide evidence of his/her income during the applicable time period. (See MMA’s General Assistance Manual for further information).

Section 4.10 Residence

The general assistance administrator shall have the care of all eligible persons who are residents of this municipality and shall cause them to be relieved at the expense of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

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

Moving/relocating. The municipality will not move or transport an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help the applicant relocate, this municipality will be responsible for providing assistance to him/her for 30 days after he/she moves provided the recipient remains eligible.

Institutions. If a resident of this municipality enters an institute such as a group home, shelter, rehabilitation center, nursing home, or hospital and requests assistance while at the institution, he/she will be the responsibility of this municipality for 6 months after he/she enters the institution. The municipality thereafter retains responsibility for an applicant in an institution if he/she has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if he/she had no residence prior to entering the institution. (22 M.R.S.A. § 4307.4).
Temporary Housing. Hotels/motels and similar places of temporary lodging are considered institutions (see above) if the municipality grants financial assistance for; makes arrangements for; or advises or encourages an applicant to stay in temporary lodging. (Note: municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months. (22 M.R.S.A. § 4307.4).

Disputes. When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the Department of Human Services in Augusta (289-3691) or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his/her eligibility and, if eligible, will grant assistance until the Department has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the Department will recover the amount due from the other municipality. (22 M.R.S.A. §§ 4307.5, 4307.6).

ARTICLE V
Eligibility Factors

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

Section 5.1 Initial application

The first time a person applies in any 6 month period will be considered an initial application, and need will be the sole condition of eligibility. Need means that the applicant's income is less than the total maximum levels of assistance contained in Section 6.8 and he/she doesn't have adequate income or other resources available to provide basic necessities. To be eligible in the future, the recipient must be in need and also meet all the eligibility conditions listed below. If six months pass from the time of one application to another, the next application will be considered an “initial application” and the person’s eligibility will be determined solely on the basis of need (22 M.R.S.A. § 4308).

Section 5.2 Eligibility for categorical assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance, if he/she is otherwise eligible. Benefits received will be included as income when determining need, except that Food Stamps and fuel assistance (HEAP, ECIP) will not be counted as income or resources or otherwise taken into consideration when determining need. Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who refuse to attempt to receive a potential resource, without just cause, will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

Section 5.3 Personal property

a) Liquid assets. No person owning assets easily convertible into cash including, but not limited to, bank deposits, stocks, bonds, certificates of deposit and other marketable security will be eligible for general assistance unless he or she uses these assets to meet his/her basic needs and thereby exhausts them.

b) Tangible assets. No person owning or possessing personal property consisting of more than one motor vehicle, or a boat, trailer, recreation vehicle
or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household will be eligible for general assistance. Exceptions may be made when a person is making an initial application and when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

c) Automobile ownership. Ownership of one automobile per household will not make a person ineligible for assistance, if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant and his/her family. When an applicant has received assistance for eight weeks or more during the 6 months preceding an application, the applicant may be considered ineligible if the value of his/her equity interest in the automobile exceeds $2,500. The municipality will neither pay nor consider as necessary expenses any car payments for which the applicant is responsible.

d) Insurance. Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may be considered as a tangible asset when an applicant has received assistance for 4 weeks or more after the initial application.

e) Transfer of property. Applicants who transfer their assets to someone else solely to appear eligible for general assistance will be denied. There will be a presumption that the applicant transferred his/her assets in order to be eligible for general assistance if the transfer occurred within the 6 months prior to applying for general assistance unless the applicant can prove otherwise, or if property is sold to a relative or acquaintance for less than the fair market value.

Section 5.4 Ownership of real estate

If the applicant or dependents own real property other than that occupied as the principal home, continued eligibility will depend on the applicant making a reasonable effort to:

a) dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or

b) obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to someone solely to appear eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (22 M.R.S.A. § 4320, see also Section 6.8).

Section 5.5 Work requirement

Employment; rehabilitation. All unemployed applicants and members of their households who are over the age of 15, will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided below (see Exemptions below). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A "suitable job" means any job which the applicant is mentally and physically able to perform.

"Available for work" means that applicants must make themselves available for work during normal business hours prevailing in the area, Monday through Saturday, and show that no circumstance exists which would prevent them from complying with the work requirement.
Exemptions. The above requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any child under the age of 6 years or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, participation in a primary or secondary educational program intended to lead to a high school diploma, participation in a training program which is either approved or determined by the Department of Labor to be expected to assist the applicant in securing employment, or participation in a degree-granting program under the Job Training Partnership Act (JTPA) or the Welfare Employment Education and Training Program (WEET).

Section 5.6 Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A.2). The work requirement provisions found in section 5.5 regarding just cause, dependents, and exemptions also apply to the municipal work program.

Consent. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate of compensation.

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

1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person would otherwise receive under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance the value of which is computed at a rate of at least the state's minimum wage.

2) In no case shall eligible persons performing work under this subsection replace regular municipal employees.

3) In no case will work performed under this subsection interfere with an eligible person's:
   a) existing employment;
   b) ability to follow up on a bona fide job offer;
   c) attendance at an interview for possible employment;
   d) participation in a primary or secondary educational program intended to lead to a high school diploma; or
   e) participation in a training program which is approved or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or participation in the Job Training Partnership Act (JTPA) program or the Welfare Employment Education and Training (WEET) program.

4) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his/her regular employment would result in the person working more than 40 hours per week.

5) In no case will an eligible person be required to perform work beyond his/her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).
If the administrator requires a doctor's statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the applicant has no means to pay for the exam, however in such a case the administrator will choose the doctor. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316.5).

6) In no case may an eligible person with an immediate need be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work for the assistance received. Work may be required to be performed prior to receiving general assistance provided that the assistance is given within 24 hours.

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

Disqualification. Any person who willfully fails to perform or willfully performs below average standards the work assigned by the municipality, without just cause, will be ineligible for assistance for 60 days (22 M.R.S.A. § 4316-A.1). As soon as the administrator knows that a recipient failed to fulfill the work assignment the administrator will notify the recipient that he/she is disqualified for 60 days unless (a) the recipient can show just cause or (b) the recipient completes the work assignment.

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

Recipients who fail to complete the first municipal work assignment they have been given (since an initial application) will be disqualified from receiving assistance during the next 60 days, although dependents in the household may be eligible (see p. 11). If during the 60 day disqualification period recipients make a timely and reasonable request to perform the work assignment which they, without just cause, failed to perform, they will regain their eligibility. The Administrator will give the recipients a work assignment as soon as possible. If recipients have an emergency need and can't make up the work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipients to avert an emergency. The amount of emergency assistance granted will be added to the total number of hours recipients must work.

Recipients who have asked to regain their eligibility during a 60 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. Recipients who have acted in bad faith will be given an opportunity to regain their eligibility but they will not be given additional assistance until they have made a good faith effort to actually complete a substantial portion of the assignment.

In order for the administrator to reach a conclusion that the recipient has acted in bad faith, the administrator shall make the following factual findings:

- the recipient was physically and mentally capable of performing the work assigned
- the recipient failed to complete the assignment
- the recipient performed the assignment below average standards
- the recipient failed to perform the assignment without just cause.

Reports. The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the Department of Human Services (22 M.R.S.A. § 4316-A.2).
Section 5.7 Use of resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource which may reduce his/her need for general assistance (see definition of Resources, p. 3). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

Mental or physical disability. Each applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician and which are available to the applicant provided they would not constitute a financial burden or create a physical risk to the individual.

Written notice; disqualification. The administrator will give each applicant written notice that he/she is required to utilize any and all potential resources. Any applicant who refuses to utilize potential resources, without just cause, after receiving a written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize the resources.

General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

Forfeiture of benefits. Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, or a knowing or intentional violation of program rules 60 days prior to applying for general assistance will be ineligible to receive general assistance to replace the forfeited benefits. The worth of the forfeited benefits will be considered income that is available to the applicant 60 days from the date of applying for general assistance. This ineligibility will not apply to any person who has forfeited such benefits prior to filing an initial application (22 M.R.S.A. § 4317), nor will it disqualify eligible dependents (22 M.R.S.A. § 4309.3).

Section 5.8 Period of Disqualification

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

Work requirement. People who do not comply with a work requirement are disqualified from receiving assistance for a period of 60 days (unless they regain their eligibility; see p. 11, 13). People who do not comply with the work requirement and are disqualified before the period covered by the grant of assistance expires shall be disqualified for 60 days following the end of the period covered by the assistance grant. People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires may be disqualified for 60 days from the date of the written notice of disqualification. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of disqualification.

Fraud. People who commit fraud are disqualified from receiving assistance for a period of 60 days. (see Section 6.4 Fraud). The administrator will notify recipients that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision. The period of disqualification shall commence on the day following the end of the period covered by the grant of assistance or on the day the fair hearing authority renders its decision, whichever is later. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence the day the administrator or the fair hearing authority determines that the recipient committed fraud, whichever is later.
ARTICLE VI
Determination of Eligibility

Section 6.1 Recognition of dignity and rights
Any determination or investigation into an applicant’s eligibility will be conducted in a manner that will not violate the applicant’s privacy or personal dignity or violate his/her individual rights.

Section 6.2 Determination; redetermination
The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants.

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

Section 6.3 Verification
Applicant’s responsibility. Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her need, income, expenses, and any changes in information previously reported on the application. The administrator will require documentation of the applicant’s income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities that are reasonably obtainable, except that food and household supplies will be budgeted at the actual amount paid up to the maximums allowed in Section 6.8 of this ordinance. The recipient is responsible for notifying the administrator of any changes in his/her household or income that may affect his/her eligibility.

When determining an applicant’s eligibility, the administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered only with the knowledge of the applicant (22 M.R.S.A. § 4309).

Decision. If an applicant does not have the necessary information at the time of application, the administrator will give him/her the opportunity to provide the information prior to the expiration of the 24 hour period within which the administrator must act on the application. If all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the 24 hour period, and the administrator can not determine the applicant’s eligibility, the application will be considered withdrawn. (22 M.R.S.A. § 4309).

Denial of assistance. The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his/her needs, income and other resources, or who refuses to grant permission for the administrator to contact other persons to verify the information. If the administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been ac-
Right to verify. It is the administrator’s responsibility to determine and verify the eligibility of each applicant. The administrator may seek and verify information from all appropriate sources including, but not limited to: the Department of Human Services and any other department of the state having information that has a bearing on an applicant’s eligibility, financial institutions, except national banks, employers and landlords, and physicians. The administrator will request the applicant’s written consent authorizing the administrator to receive the necessary information (22 M.R.S.A. § 4314).

Penalty for refusing to release information. Any person who is required but who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than $25 nor more than $100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. §§ 4314.5, 4314.6).

Section 6.4 Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance (22 M.R.S.A. § 4315). A material fact is any information which has direct bearing on the person’s eligibility. False representation shall consist of any individual knowingly and willfully:

a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant’s household is not entitled;

b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant’s household is not entitled; or

c) using general assistance benefits for a purpose other than that for which they were intended.

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

Period of ineligibility. When the general assistance administrator believes that a person has misrepresented material facts, the applicant will be asked to furnish any additional information and/or verify the accuracy of the information provided. If the applicant is unwilling or unable to produce the required verification within a reasonable period of time, and the administrator concludes that the misrepresentation is of material fact, the applicant will be denied for up to 60 days, although the remainder of the household may still be eligible. For the purpose of this section a material misrepresentation is a false statement about an eligibility factor in the absence of which the assistance would not have been granted. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance or upon the decision of the fair hearing authority, whichever is later. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on either the day the administrator or the fair hearing authority determines that the recipient committed fraud, whichever is later.

Right to a fair hearing. Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority in accordance with Article VII of this ordinance. No recipient shall have his/her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the fair hearing authority may appeal that decision to the Superior Court pursuant to Rule 80-B (22 M.R.S.A. § 4315).
Reimbursement. If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, he/she will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

Dependents. In no event will the disqualification of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4315).

Section 6.5 Period of eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309).

Section 6.6 Determination of need

Applicants will be considered in need of general assistance if their income, money, property, credit, assets or other resources available to provide basic necessities for their household are less than the maximum levels of assistance set forth in Section 6.8 (22 M.R.S.A. § 4301.10). The maximum levels of assistance are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305.3-A).

The period of time used to calculate need will be the next 30 day period from the date of application (22 M.R.S.A. § 4301.7). The administrator will calculate applicants' expenses according to the actual amount owed or the maximum level allowed in Section 6.8, whichever is less. Applicants will not be considered eligible if their income exceeds the maximum levels of assistance, except in an emergency (see Section 4.9, 22 M.R.S.A. § 4308.2).

Income for basic necessities. Applicants are required to use their income for basic necessities. Applicants who spend their income on items that are not basic necessities will not be eligible to receive assistance to replace that income, but will be eligible for assistance if they are in need up to the amount of their allowed deficit. Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the maximum levels of assistance.

Computation of income and expenses. Income will be considered on a weekly basis unless the applicant's eligibility is determined monthly. In determining need the administrator will subtract the applicant's net income from his/her allowed expenses for basic necessities contained in Section 6.8. If income is greater than the allowed expenses, the applicant is not in need and will not be eligible except in an emergency (see Sec. 4.9). If the applicant's income is less than what is needed to provide the allowed basic necessities, the applicant will be considered in need. Any applicant who is in need will be considered eligible the first time he/she applies. Any applicant who submits subsequent applications will be eligible only if he/she is in need and meets all other eligibility conditions as provided in Article V of this ordinance.

The municipality will provide assistance in an amount up to the deficit (need) in the applicant's total allowed budgeted need. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance, except in an emergency.

Section 6.7 Income

Income standards. Applicants whose income is sufficient to provide basic necessities according to the maximum levels of assistance set forth in Section 6.8 will not be considered in need. Applicants whose income exceeds the max-
Imum levels will not be eligible for assistance unless the applicants can show that there is an emergency. The administrator will conduct an individual factual inquiry into the applicant’s income and expenses each time they apply.

**Calculation of Income.** To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application and any assets or resources that would alleviate their need. If their income exceeds the amount they need for basic necessities, up to the maximum levels contained in Section 6.8, applicants will not be considered in need. Exceptions will be made in emergency situations which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308; see Section 4.9). To calculate weekly income and expenses, the administrator will divide the applicants’ monthly income and expenses by 4.3.

**Types of Income.** Income which will be considered in determining an applicant’s need includes:

a) **Earned Income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee is considered earned income. If a person is self-employed, total income will be computed by subtracting business expenses from gross income. When income consists of wages, the amount computed will be that available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant’s dependents will not be considered as earned income. Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will not be considered available income and will be deducted (22 M.R.S.A. § 4301.7).

b) **Income from spouse or support from relatives.** Contributions from a spouse or relatives who are not members of the applicant’s household will be considered income only if they are actually received by the applicant or paid directly to the applicant’s creditors.

c) **Income from other assistance or social services programs.** State categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive.

d) **Court-ordered support payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Human Services’ Support Enforcement Location Unit.

e) **Income from other sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income.

f) **Earnings of a son or daughter.** Income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income.

g) **Income from household members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another (Boisvert v. Lewiston, CV60-436, Androscoggin County Superior Court).
Section 6.8 Basic necessities

The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit (need) toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to although if the administrator determines that there are exceptional circumstances and an emergency is shown to exist, these absolute levels will be waived in order to meet immediate needs (Giddlen v. Town of Fairfield, et al., CV79-17, Somerset County Superior Court). In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

The applicant's need for common living expenses for food, rent, fuel, etc. will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. This presumption may be rebutted by evidence that the other household members had no income with which to pay their share of common expenses. No applicant will be allowed to claim a need for any expense which in fact, has been or will be paid by another person.

a) Food. The administrator will provide food assistance to eligible persons up to the allowed maximum amounts below. In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); Dupler et al v. City of Portland et al, CV-74-134 SD). The municipality will authorize vouchers to be used solely for approved food products.

The maximum amounts allowed for food are:

<table>
<thead>
<tr>
<th>No. In Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$ 25</td>
<td>$ 100</td>
</tr>
<tr>
<td>2</td>
<td>30</td>
<td>155</td>
</tr>
<tr>
<td>3</td>
<td>55</td>
<td>220</td>
</tr>
<tr>
<td>4</td>
<td>68</td>
<td>275</td>
</tr>
<tr>
<td>5</td>
<td>81</td>
<td>325</td>
</tr>
<tr>
<td>6</td>
<td>97</td>
<td>390</td>
</tr>
<tr>
<td>7</td>
<td>107</td>
<td>430</td>
</tr>
<tr>
<td>8</td>
<td>122</td>
<td>490</td>
</tr>
</tbody>
</table>

Additional persons in the household will be budgeted at $16.25 per person per week or $65 a month. The administrator will exceed the above maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement.

b) Housing. The administrator will provide assistance with rent or mortgage payments that are reasonable and within the allowed maximum levels below. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The ad-
ministrator will inform the applicant of the allowed housing maximums to assist him/her in his/her search for housing. Single individuals will be required to live in rooming or boarding houses when such housing is available. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed. The municipality will not pay security deposits or back bills except in an emergency as provided in Section 4.8.

Mortgage payments. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant’s proprietary interest in the housing. Factors to consider in making this determination include: (1) the marketability of the shelter’s equity, (2) the amount of equity, (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs, (4) the extend to which liquidation may aid the applicant’s financial rehabilitation, (5) a comparison between the amount of mortgage obligations and of anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing, (6) the imminence of the applicant’s dislocation from owned housing because of his/her inability to meet the mortgage payments, (7) the likelihood that the provision of housing assistance will prevent such dislocation, and (8) the applicant’s age, health, and social situation. These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide. The municipality will not make any mortgage payment unless the applicant has been served a notice of foreclosure although mortgage payments will be budgeted as an expense.

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

Liens. When the municipality makes mortgage payments, the municipality may place a lien on the property in order to receive its costs of granting assistance with mortgage payments (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his/her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person’s property to recover its costs of providing general assistance for a mortgage payment it must file a notice of the lien with the county register of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality’s or the state’s interest in an amount equal to the sum of that mortgage payment and all subsequent mortgage payments made on behalf of the same eligible person. Not less than 10 days prior to filing the lien notice in the registry, the municipal officers must send a different notice to the owner of the real estate, the general assistance reci-
The municipal officers must give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment or the imposition of interest. This notice must include the same information that appeared on the original notice of proposed filing sent to the recipient. The municipality will charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer. The interest will accrue from the date the lien is filed.

The maximum amounts allowed for housing are:

<table>
<thead>
<tr>
<th>No. of Bedrooms</th>
<th>Unheated weekly</th>
<th>Unheated monthly</th>
<th>Heated weekly</th>
<th>Heated monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(See Appendix for figures to insert here)

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

Assistance will be granted to eligible applicants for their most recent bill. The municipality is not obligated to pay back bills or security deposits. Exceptions may be made in emergency situations pursuant to Section 4.9 Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the health of the household members, and other appropriate factors in reaching a decision. Applicants requesting assistance with a bill that is more than 2 months old will not be considered in an emergency situation if the applicants had sufficient income, money, assets or other resources to pay the bill when it was received. The applicants have the burden of providing evidence of their income for the applicable period (22 M.R.S.A. § 4308.2). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant’s responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

The maximum amounts allowed for utilities for lights, cooking, and hot water are:

<table>
<thead>
<tr>
<th>No. in Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>$ 10.50</td>
<td>$ 45</td>
</tr>
<tr>
<td>3-4</td>
<td>11.62</td>
<td>50</td>
</tr>
<tr>
<td>5-6</td>
<td>12.70</td>
<td>55</td>
</tr>
</tbody>
</table>

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

Assistance will be granted to eligible applicants for their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in Section 4.8. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. Running out of fuel will not necessarily be considered an emergency unless the applicants have just cause for failing to give the administrator timely notice of their need for fuel.

When considering requests for fuel, eligible applicants will be granted assistance with the actual amount necessary up to the following maximums:

<table>
<thead>
<tr>
<th>Month</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$50</td>
<td>100</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>January</td>
<td>$225</td>
<td>225</td>
<td>125</td>
<td>125</td>
</tr>
<tr>
<td>February</td>
<td>225</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>March</td>
<td>125</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>April</td>
<td>125</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>May</td>
<td>50</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

When fuel such as wood, coal and/or natural gas are used to heat, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year or 126,000 cubic feet of natural gas per year.

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

<table>
<thead>
<tr>
<th>No. in Household</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>$5.80</td>
<td>$25.00</td>
</tr>
<tr>
<td>3.4</td>
<td>6.97</td>
<td>30.00</td>
</tr>
<tr>
<td>5-6</td>
<td>8.13</td>
<td>35.00</td>
</tr>
<tr>
<td>7-8</td>
<td>9.30</td>
<td>40.00</td>
</tr>
</tbody>
</table>

Additional persons in the household will be budgeted at $1.25 per week or $5 a month.

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

<table>
<thead>
<tr>
<th>No. of Children</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$9.30</td>
<td>$40</td>
</tr>
<tr>
<td>2</td>
<td>13.95</td>
<td>60</td>
</tr>
<tr>
<td>3</td>
<td>18.60</td>
<td>80</td>
</tr>
<tr>
<td>4</td>
<td>23.35</td>
<td>100</td>
</tr>
</tbody>
</table>

f) Other Basic Necessities. Expenses falling under this section will be granted when they are deemed essential to an applicant’s or recipient’s health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained from other sources.

1) Clothing. The municipality may assist a household with the purchase of adequate clothing. In most circumstances, clothing will be a postponable item.
Exceptions to this would be if fire or unusually cold weather makes extra clothing
an immediate necessity, if special clothes are needed for the applicant’s employ-
ment, or if household members need underwear. Before assistance will be
granted for clothing, the general assistance administrator must be satisfied that
the applicant has utilized all available resources to secure the necessary
clothing.

2) Medical. The municipality will pay for essential medical expenses, other
than hospital bills (see below), provided that the municipality is notified and ap-
proves the expenses and services prior to their being made or delivered. The
municipality will grant assistance for medical service only when assistance can-
not be obtained from any other source and the applicant would not be able to
receive necessary medical care without the municipality’s assistance. The ap-
plicant is required to utilize any resource, including any federal or state pro-
gram, that will diminish his/her need to seek general assistance for medical
expenses. The municipality will grant assistance for non-emergency medical
services only if a physician verifies that the services are essential. The ad-
ministrator may require a second medical opinion from a physician designated
by the municipality at the municipality’s expense to verify the necessity of the
services.

Ordinary medical supplies will be budgeted at the actual amount not to ex-
ceed $10 a month. Allowable supplies include aspirin, bandages, and non-
prescriptive medicines. In addition, the basic monthly rate for telephone ser-
dice will be budgeted when a telephone is essential to the health and safety
of the household. In order for telephone service to be considered an allowable
expense the applicant must provide a written statement from physician certify-
ing that the telephone is essential.

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

Any person who cannot pay his/her hospital bill must apply to the hospital
for consideration under the hospital’s charity care program as provided in Title
22 M.R.S.A. § 396-F(1). Anyone who is not eligible for the hospital’s charity
care program may apply for general assistance. Applicants must apply for
assistance within 30 days of being discharged from the hospital and provide
a notice from the hospital certifying that they are not eligible for the hospital’s
charity care program.

Before the municipality will consider whether an applicant is eligible for
assistance with a hospital bill, the applicant must enter into a reasonable pay-
ment arrangement with the hospital. The payment arrangement will be based
upon the Medicaid rate. In determining an applicant’s eligibility the municipali-
ity will budget the monthly payment to the hospital the applicant has agreed
to pay. The applicant’s need for assistance with a hospital bill will be considered
each time he/she applies by including the amount of the bill in the applicant’s
monthly budget.

4) Dental. The municipality will pay for dental services including regular
check ups when necessary. If full mouth extractions are necessary the munici-
pality will pay for dentures if the applicant has no other resources to pay
for the dentures. The applicant will be referred to a dental clinic in the area
whenever possible. The administrator will expect the applicant to bear a
reasonable part of the cost for dental services, including extractions and den-
tures, taking into account the applicant’s ability to pay.

5) Eye Care. In order to be eligible to receive general assistance for
eyeglasses, an applicant must have his/her medical need certified by a person
licensed to practice optometry. The general assistance administrator will pro-
provide assistance for eyeglasses to eligible persons only if such assistance is unavailable from other sources in the community.

6) Work-related expenses: In determining need, reasonable work-related expenses will be budgeted. These expenses include transportation, child care costs, work clothes and supplies. The applicant is required to provide verification of the costs and that the expenses were necessary.

7) Burial: The municipality recognizes its responsibility to pay for the burial of indigent persons under certain circumstances, provided that the funeral director gives timely notice to the municipality and the funeral director ascertains that there are no family members or other persons who are able to pay the burial costs (22 M.R.S.A. § 4313).

In order for the municipality to be liable for a burial expense the funeral director must notify the administrator prior to the burial or by the end of the next business day following the funeral director’s receipt of the body, whichever is earlier (22 M.R.S.A. § 4313.2). It is the funeral director’s responsibility to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are able to pay the expenses and the funeral director wants the municipality to pay all or part of the expenses, he/she should refer them to the municipality.

In cases where there are liable family members (father, mother, grandfather, grandmother, children, and grandchildren) the family must apply for assistance so that the administrator can determine what resources are available to pay the costs of the burial. The municipality will not accept full responsibility for the burial expenses unless all responsible family members can demonstrate to the general assistance administrator’s satisfaction their inability to pay in full or make a deferred payment arrangement with the funeral home. (If there are no liable family members or others, the funeral director should apply on behalf of the deceased.) The administrator may take up to 10 days to give a written decision. If responsible family members refuse to allow the municipality to investigate their resources the municipality will not grant assistance. If relatives, other persons, or other sources cannot cover the burial expenses of an indigent person, up to $750.00, the municipality will pay the difference, with an additional payment for the lot in the least expensive section of the cemetery and the opening and closing of the grave site. If the municipal ordinance requires vaults or cement liners, the general assistance administrator will pay the actual wholesale price.

Allowable burial expenses are limited to removal of the body from a local residence or institution, a secured death certificate or obituary, embalming, a minimum casket and a reasonable cost for overhead. Other costs will not be paid by the municipality.

Any other benefits or resources which are available, such as the Social Security Death Benefits or contributions from other persons, will be deducted from the amount which the municipality will pay.

Section 6.9 Notice of decision

Written decision. The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving an application (22 M.R.S.A. § 4305.3; See Article IV, Section 4.6).

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

Contents. After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. The notice will state that applicants:

a) have the right to a fair hearing and the method by which they may obtain
ARTICLE VII
The Fair Hearing

Section 7.1 Right to a fair hearing
Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his/her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision by the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision (Carson v. Oakland, 442 A.2d 170 (Me. 1982); Thibodeau v. Lewiston, Androscoggin Superior Ct. (1979), #CV78–388).

Section 7.2 Method of obtaining a fair hearing
Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

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

a) the decision on which review is sought;

b) the reason(s) for the claimant's dissatisfaction and why he/she believes he/she is eligible to receive assistance; and

c) the relief he/she seeks.

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

Scheduling the fair hearing. Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given notice early enough to allow preparation and will also be given adequate preliminary information about the hearing procedure to ensure effective preparation of his/her case.

Section 7.3 The fair hearing authority
The municipal officers will appoint a fair hearing authority which will review decisions of the general assistance administrator when requested by any claim-
The authority is charged with the responsibility of assuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the hearing authority; or, if designated, the board of appeals created under Title 30 § 2411 (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as fair hearing authority must:

a) not have participated in the decision which is the subject of the appeal;

b) be impartial;

c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination;

d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

Section 7.4 Fair hearing procedure

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

a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his/her agents, counsel and witnesses;

b) be open with a presentation of the issue by the fair hearing authority;

c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;

e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses; examine all evidence presented at the hearing;

f) result in a decision, based exclusively on evidence or testimony presented at the hearing;

g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his/her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

Section 7.5 The fair hearing decision

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

a) a statement of the issue;

b) relevant facts brought out at the hearing;

c) pertinent provisions in the law or general assistance ordinance related to the decision;
d) the decision and the reasons for it.

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

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

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

ARTICLE VII
Recovery of Expenses

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

Relatives. The parents and grandparents living in or owning real or tangible property within the State of Maine are liable for the support of their children and grandchildren regardless of age. In addition, children and grandchildren are liable for the burial costs of their parents and grandparents. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility. (22 M.R.S.A. § 4319).
A

Appeal — See Fair Hearings
Applicant
  Defined ................................................. 1
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XYZ
APPENDIX
## Maximum Levels — Housing

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Municipalities in SMSA’s (i.e., Standard Metropolitan Statistical Areas — areas where a municipality or a core of municipalities have a population of at least 50,000) should consider the following figures.

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<td>640</td>
</tr>
<tr>
<td>4</td>
<td>141</td>
<td>606</td>
<td>166</td>
<td>714</td>
</tr>
</tbody>
</table>
Mailbox Policy for the Municipality of Pittston

For convenience and practicality, mailbox installations have been allowed within the right-of-way of Maine’s public highways; however it is important to recognize that such installations have two very important conditions:

1) The mailbox must be installed in accordance with applicable standards to ensure that mail can be delivered and that the mailbox does not create an obstacle or safety hazard to those that use or maintain the highway, and

2) The mailbox is installed entirely at the owner’s risk. In other words, if the mailbox incurs damage during any sort of highway operations or maintenance, the property owner is not entitled to replacement or compensation. In fact, if the mailbox was not installed in accordance with the applicable standards as stated above, the owner may even be held liable for injuries or damages that may have been incurred as a result.

Mailbox design and installation standards are available from several sources, and mailbox owners are expected to consult this information prior to undertaking any mailbox installation or replacement. The following standards have nationwide relevance and were developed in cooperation with one another:

- The United States Postal Service (USPS) Mailbox Guidelines. The USPS defines the standards for mailbox construction, as well as the placement tolerance that must be met to accommodate postal operations. Specifics may be obtained from your local post office or online at: https://www.usps.com/manage/mailboxes.htm

- American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide. The AASHTO Roadside Design Guide, Chapter 11: Erecting Mailboxes on Streets and Highways deals with the safety and construction of privately owned mailboxes, mailbox supports, and mailbox turnout designs and is less focused on postal operations. This publication may be obtained online through the AASHTO Bookstore at: https://bookstore.transportation.org/item_details.aspx?id=1807

In addition, if the mailbox is to be installed in an area with sidewalks, it is important to recognize that the sidewalks must continue to comply with ADA requirements:

- American Disabilities Act (ADA). The most current version of the ADA Standards for Accessible Design set forth the minimum requirements to ensure facilities are readily accessible to and usable by individuals with disabilities. http://www.ada.gov/regu2010/2010ADASTandards2010ADAstandards.htm#c4

The municipality has developed this policy to promote compliance with these national standards and to help further clarify the expectations and responsibilities of Maine mailbox owners. Such compliance helps us ensure that we continue to provide safe, efficient and accessible highways for all. The following pages further specify the details associated with mailbox height, location, offset, and post type to minimize the potential hazards and conflicts associated with mailbox installations and to reduce the opportunities for damage to mailboxes.
**General Location:**

Whenever possible, your mailbox should be located after your driveway opening. This location placement improves visibility, minimizes the amount of snow that comes off of the snow plow, and improves the approach for your mail carrier. The diagram below further clarifies this preferred placement:

![Mailbox Installation Standards Diagram]

**Mailbox Support Design:**

In many cases, it is best to use an extended arm type of post with a free-swinging suspended mailbox. This allows snowplows to sweep near or under boxes without damage to supports and provides easy access to the boxes by carrier and customers. The following picture shows a free-swinging suspended mailbox:

![Mailbox Support Design Image]

In addition, note the strategic placement of the red reflector on the point closest to the road. This will help your local snowfighter see and avoid your mailbox during winter storms.
Mailboxes should be set back from the edge of the shoulder—regardless of whether the shoulder is gravel or paved. In other words, the face of the mailbox should be at least one foot (1’) back from the edge of the normally plowed surface of the highway or the face of curb. Greater offset distances are encouraged whenever possible to allow the mail carrier to get further out of traffic and to further minimize potential damage to your mailbox. The following picture shows a mailbox with a reasonable offset:

Mailboxes in sidewalk areas should leave at least 36” behind the back of the box or the post, whichever is located the furthest from the road.
Height:
According to USPS standards, a mailbox must be installed with the bottom of the mailbox located between 41” and 45” high above the surface of the highway shoulder. We recommend that this height be closer to the 45” measurement to minimize conflict with the height of the plow truck wing when snow is being pushed back during, or between, winter storms. The following picture further clarifies the height considerations:

---

Post Size, Type and Embedment:

Mailbox posts must be sturdy enough to hold up the mailbox in all types of weather conditions, however they cannot be so rugged that they present a hazard to vehicles that inadvertently leave the road. If a mailbox support is struck by a vehicle, it must easily break away. Therefore, the following types of posts are deemed acceptable:

- **4” x 4” wooden posts** embedded 2 feet into the ground. Larger wooden posts (4” x 6” or 6” x 6”) may be used only if the post is drilled through with an appropriate spade bit to create a shear plane. The following diagram indicates the necessary holes and spacing.

- 1” to 2” round diameter steel or aluminum pipe or standard U-channel post embedded 2 feet into the ground.
• Unacceptable mailbox supports include: anything that is filled with concrete, masonry and stone structures, heavy steel structures, and most objects that were intended for other uses (e.g. antique plows, I-beams, and various other household tools and objects).

NOTICE: Mailboxes, attachments or support systems not consistent with this policy are considered “Deadly Fixed Objects” (aka. “DFOs”) and are in violation of 23 MRSA §1401-A on state and state aid roads. On local roads, they can be considered as “obstructions” and a number of statutes relate to these obstructions. As such, when these installations are recognized by the municipality, the owner will be informed of the hazard and immediate removal will be requested. If the property owner does not comply with this request, the municipality may elect to remove the installation and seek reimbursement from the property owner for all costs incurred.

Adopted at Special Town Meeting 10/26/2016
Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs
in the Municipality of PITTSTON

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

EFFECTIVE by Special Town Meeting vote on 2/8/2017
1. **Purposes.** To place the Town of Pittston Planning Board on a clear legal foundation, to change the Town of Pittston Planning Board from an appointed to an elected board, to change the term of its members from five years to three years, and to make appropriate provision for the transition of these changes.

2. **Re-establishment.** Pursuant to municipal home rule authority, being Art. VIII, pt. 2, Section 1 of the Maine Constitution and Title 30-A, M.R.S.A., s 3001, the Town of Pittston hereby re-establishes its Planning Board.

3. **Ratification of acts of Appointed Planning Board.** The Town Meeting hereby ratifies all acts of the appointed Planning Board existing on the date of adoption of this ordinance, and declares them to be the acts of the legally constituted Planning Board of the Town of Pittston.

4. **Members; oath; vacancies; Selectmen may not serve.**
   A. The Planning Board shall consist of five members and two alternate members. The term of office of members and alternate members shall be three years. All members and alternate members shall be elected by the secret ballot process made available for towns by Maine law and may be re-elected to additional terms.
   B. All members and alternate members shall be sworn to office by the municipal clerk or other person authorized by state law to administer oaths before entering upon the performance of the duties of the office of member or alternate member.
   C. When there is a vacancy in office, the Selectmen shall within 60 days of its occurrence appoint a person to serve for the unexpired term. A vacancy may occur by the following reasons: nonacceptance, resignation, death, removal from the municipality, permanent disability or incompetency, failure to qualify for the office within ten days after written demand by the Selectmen, failure of the municipality to elect a person to office, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least 75% of all meetings during any period of twelve (12) consecutive months. When a vacancy occurs, the chair of the board shall immediately notify the Selectmen in writing. The board may recommend to the Selectmen that the attendance provision be waived for cause, in which case no vacancy will then exist until the Selectmen disapprove the recommendation. A person appointed to fill a vacancy serves only for the unexpired remainder of the term of the member whom the person succeeds, and the office is then filled by election at the annual meeting.
D. A Selectmen may not be a member or associate member of the Planning Board.

   A. The board shall elect a chair and vice-chair from among its members and alternate members. The board may either elect a secretary from among its members and alternate members or hire a non-board member to serve as secretary, if appropriated funds exist for the purpose. The term of all offices shall be three years with eligibility for re-election.
   B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chair, the chair shall designate an alternate member to sit in that member's stead. If the chair is the only alternate member present, a majority of members present and voting will decide whether a member is unable to act. If the chair is an alternate member and the other alternate member is present, the chair shall make the determination of inability to act and shall appoint the other alternate member to sit in the other member's stead.
   C. An alternate member may attend all meetings of the board and participate in its proceedings, but may vote only when he or she has been designated by the chair to sit for a member.
   D. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the number of members less the member who is being challenged, and that member shall have no vote.
   E. The chair shall call at least one regular meeting of the board each month. The chair may call, and the board may schedule, such additional meetings as may be necessary to accomplish the board's business.
   F. No meeting of the board shall be held without a quorum consisting of three members or alternate members authorized to vote. The board may act by a majority of its quorum.
   G. The board shall adopt rules for the transaction of its 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 and copied at reasonable times.

6. Duties: powers. The Board has the following duties and powers:
   A. The board shall perform such duties and exercise such powers as are provided by this and other Pittston town ordinances and by the laws of the State of Maine.
B. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

7. Effective date; transition. This ordinance, if adopted, becomes effective immediately, but the first elections to be held pursuant to it shall be held at the first annual meeting held at least 90 days after it is adopted. Appointed Planning Board members and alternates with time then remaining on their term shall continue in office until the expiration of the term to which they have been appointed, and thereupon their offices shall be filled by election for a term of three years.

8. Severability. If any part of this ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, then the remainder of this ordinance shall not fail, but shall continue in effect unless the loss of the part found unlawful entirely vitiates the scheme of the ordinance.

Given under our hand this 7th day of December, 2004

Arlene Shea, Chair

Wanda Burns-Macomber

Jane H. Hubert

Adopted by voters the 7th day of December, 2004.
SECTION 1. TITLE.

This Ordinance may be cited as "An Ordinance relating to siting, storage and disposal of low-level and high-level radioactive waste within the Town of Pittston" and shall be referred to herein as the "Ordinance."

SECTION 2. PURPOSE.

The purpose of this Ordinance is to protect the health, safety and welfare of the citizens of Pittston; enhance and maintain the quality of the environment; conserve natural resources; prevent ground water, surface water and air pollution; and preserve property values and the tax base within the Town of Pittston.

SECTION 3. AUTHORITY.

A. This Ordinance is adopted pursuant to Municipal Home Rule authority as set forth in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

B. The Planning Board of the Town of Pittston shall administer this Ordinance.

SECTION 4. PROHIBITIONS.

A. Any dumping, discharge, deposit, transfer, disposal, storage, handling or placement of high-level radioactive waste or low-level radioactive waste, as defined in Title 38 M.R.S.A. Section 1451, subsections 6 and 11, and Title 38 M.R.S.A. Section 1503, subsection 5 is prohibited within the boundaries of the Town of Pittston.

B. Any testing, digging, drilling, geologic research or other site assessment, investigation or characterization activities undertaken in preparation for the dumping, discharge, deposit, transfer, disposal, storage, handling or placement of high-level radioactive waste or low-level radioactive waste within the boundaries of the Town of Pittston is prohibited without a permit approved pursuant to Section 5 of this Ordinance.

SECTION 5. PERMIT FOR SITE ASSESSMENT.

A. Any application for a permit to conduct any site assessment, investigation or characterization, exploratory testing, drilling, geologic research or other testing in preparation for the dumping, discharge, deposit, transfer, disposal, storage, handling or placement of high-level radioactive waste or low-level radioactive waste within Pittston shall be in accordance with the following:

1. The permit application shall be filed in triplicate with the Planning Board for review and accompanied by a fee of $100.00 for processing the application. Within 30 days of the filing of an application, the Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a
complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed activity.

2. The permit application shall contain the following information:

a. A detailed description of the testing, exploratory or other site assessment activity to be conducted;

b. A topographic map designating the specific location of the proposed testing, exploratory or other site assessment activity;

c. A diagram depicting the proposed testing, exploratory or other site assessment activity;

d. The estimated length of time that each of the testing, exploratory or other site assessment activity will continue;

e. The persons who will be conducting the testing, exploratory or other site assessment activity, and the credentials and experience of those conducting the activity;

f. The records that will be maintained of the testing, exploratory or other site assessment activity;

g. An analysis of whether the testing, exploratory or other site assessment activity is consistent with the purposes of this Ordinance;

h. A list of all siting or other methodology, guidelines, rules, regulations or laws the applicant will be following in conducting the proposed testing, exploratory or other site assessment activity;

i. A description of any environmental impacts from the testing, exploratory or other site assessment activity, any plans to mitigate the environmental impacts, and the long-term effects of those impacts;

j. A description of the compatibility with, and potential adverse impacts on, neighboring land uses from the testing, exploratory or other site assessment activity;

k. A description of any impacts on property values within Pittston or on the municipal tax base from the testing, exploratory or other site assessment activity;

l. The purpose of the proposed testing, exploratory or other site assessment activity;

m. Documentation of the express written consent of all owners of property on which the testing, exploratory or other site assessment activity is to be conducted, including landowners across whose property equipment and personnel are transported for the purpose of conducting the proposed activity; and

n. Any other relevant information.

3. The Planning Board shall hold a public hearing within 60 days of the date the application is deemed completed. The Planning Board shall
publish the time, date and place of the hearing at least twice. The
affected landowners, including abutting landowners, shall be notified of
the hearing by Certified Mail.

4. Within 60 days of the public hearing, the Planning Board shall
either approve, approve with conditions, or disapprove the application.
The Planning Board may not approve a permit unless it affirmatively finds
that each of the following requirements will be met:

a. The proposed testing, exploratory or other site assessment
activity will not result in environmental degradation either in the
short or long term and will not result in negative impacts on
property values or the municipal tax base;
b. The proposed testing, exploratory or other site assessment
activity will be conducted according to a methodical, consistent,
open and dependable process;
c. The proposed testing, exploratory or other site assessment
activity will be open to inspection by representatives of the
municipality;
d. The results of the proposed testing, exploratory or other site
assessment activity will be made available to the public in a timely
manner; and
e. The proposed testing, exploratory or other site assessment, or the
purpose of such activity, is consistent with the purposes of this
Ordinance.

B. Any person aggrieved by a decision of the Planning Board either
granting or failing to approve a permit under this Ordinance, may appeal
the final decision to Superior Court within thirty (30) days.

C. The permit may be revoked by the Planning Board, after hearing, for
falsehoods, misrepresentations or omissions in the permit application,
failure to conduct the permitted activity as represented in the application
or for failure to comply with any permit terms or conditions.

SECTION 6. MUNICIPAL SITE ASSESSMENT ACTIVITIES.

A. Notwithstanding any other provision of this Ordinance, the Town of
Pittston may on behalf of its citizens undertake site-specific testing,
exploratory or other assessment, investigation and characterization
activities when:

1. A state or federal agency, authority or other governmental
entity, its contractors or agents, or other person or entity has designated
land in the Town of Pittston as a possible site for the dumping, discharge,
deposit, transfer, disposal, storage, handling or placement of high-level
radioactive waste or low-level radioactive waste;

2. All landowners whose land would be affected by the testing,
exploratory or other assessment activity have provided express written
consent; and

3. By majority vote, the voters of the Town of Pittston have
approved the testing, exploratory or other assessment activity.
SECTION 7. AMENDMENTS.

This Ordinance may be amended by a majority vote of the voters of Pittston. Amendments shall be initiated by the Planning Board or by petition of 10 percent of the voters casting ballots in the last gubernatorial election in Pittston. The Planning Board shall conduct a public hearing on the proposed amendment.

SECTION 8. ENFORCEMENT.

A. Any violation of this Ordinance shall be deemed a Public Nuisance.

B. The Code Enforcement Officer of Pittston shall enforce this Ordinance. Whenever the Code Enforcement Officer determines that there has been a violation of this Ordinance, he/she shall give written notice to the person(s) responsible for such violation by personal service or registered mail, return receipt requested.

1. The notice shall indicate the nature of the violation and the action(s) necessary to correct it.

2. A copy of such notice shall be submitted to the Planning Board and the Selectboard of the Town of Pittston.

C. The Selectboard, after consultation with the Planning Board, is directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief and fines, necessary to enforce the provisions of this Ordinance in the name of the Town of Pittston. The Selectboard, after consultation with the Planning Board, is authorized to enter into administrative consent agreements for the purpose of correcting and halting violations of this Ordinance, and for the purpose of recovering fines without court action.

D. Any person(s) who violates any provision of this Ordinance shall be subject to the fines and penalties and provisions of Title 30-A M.R.S.A. Section 4452.

SECTION 9. SEVERABILITY.

Severability is intended within and throughout the provisions of this Ordinance. Should any provisions, including interalia, any parts, sections, subsections, sentences, clauses, phrases or terms or the application thereof, to any person or circumstance be held invalid, the application of other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.

SECTION 10. ADOPTION.

This Ordinance was submitted to the voters of the municipality and adopted at Pittston on 4/13/92 and shall be effective that date.
SECTION 5. PERMIT FOR SITE ASSESSMENT (in part).

A. Any application for a permit to conduct any site assessment, investigation or characterization, exploratory testing, drilling, geologic research or other testing in preparation for the dumping, discharge, deposit, transfer, disposal, storage, handling or placement of high-level radioactive waste or low-level radioactive waste within Pittston shall be in accordance with the following:

1. Seven (7) copies of the permit application shall be filed in triplicate with the Planning Board for review and accompanied by a fee of $100.00 for processing the application. In addition, the applicant shall deposit the sum of $4000.00 into a special account designated for that application, to be used by the Planning Board for additional permit processing expenses, if necessary. Any balance in the account remaining after a decision on the final application by the Planning Board shall be returned to the applicant.

a. Within 30 days of the filing of an application, the Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed activity.

b. Within seven (7) days of the Planning Board's determination that a complete application has been filed, the applicant shall furnish an additional fifteen (15) copies of the final application to the Planning Board. In addition, the applicant shall provide a complete copy of the final application to any person who is a registered voter or listed on the property tax rolls of the Town of Pittston and requests such within fourteen (14) days of the Planning Board's determination that a complete application has been filed. Such copies shall be provided to those that request them at least fourteen (14) days prior to the public hearing specified in paragraph 3, below. The Planning Board shall make available three (3) copies of the final application for public review at the Pittston Town Office during normal business hours.
Kennebec ss
Town of Pittston
State of Maine

To Lloyd Carey, resident of the Town of Pittston:

You are hereby required in the name of the State of Maine to notify the
voters of Pittston qualified to vote in Town affairs to meet at the Pittston
Central Fire Station in the town of Pittston on Wednesday June 17, 1992 at
7:30 P.M. in the evening, and there act on the following articles:

Article 1. To choose a Moderator to preside over said meeting.

Article 2. Shall the Town vote to adopt an amendment to the Radioactive
Waste Ordinance that was accepted at a special town meeting
held on April 13, 1992.

The registrar of Voters will hold regular office hours for the purpose
of voter registration or to correct any errors in or change in names or
addresses on the Voting lists. Anyone who is 18 years of age may register to
vote and anyone who is not registered may not vote in any election.

Given under our hands the 3rd day of June, 1992.

Pursuant to the Within Warrant to me directed, I have this day warned
and notified the inhabitants of the Town of Pittston to assemble at the time
and place therein mentioned by posting four true and attested copies; one at
the Pittston Town Office, one at Troop's Variety, one at the Village General
Store, and one at Verhille's Hardware Store; being public and conspicuous
places in said Town of Pittston

Signed Lloyd Carey
Lloyd Carey
Resident of Town of Pittston
TOWN OF PITTSTON
ORDINANCE FOR THE RECALL OF MUNICIPAL OFFICERS AND
OR OFFICIALS

SECTION 1. Establishment

Under MRSA Title 30-A Section 2602 (6) amended October 13, 1993 a town may enact an ordinance for the recall and removal of elected municipal officials and officers with the exception of school board members as noted in MRSA 30-A section 2602.

SECTION 2. Applicability

Any elected municipal official or elected municipal officer of the Town of Pittston may be recalled and removed from office as herein provided for.

SECTION 3. Petitions for Recall

a. The petition for recall must contain only signatures of the registered voters of the Town of Pittston, equal to ten percent (10%) of the number of votes cast in the last Gubernatorial election but in all cases no less than ten.

b. The petition shall be addressed to those members of the Selectboard having no interest in the subject matter of the petition.

c. The petition shall state the name and office of the person whose removal is being sought, and a general statement of the reasons such removal is desired.

d. If recall of more than one official is being sought there shall be a separate petition for each official whose removal is being sought.

e. Each page of the petition shall provide a space for the voter’s signature, address and printed name.

f. All petition pages thereof shall be filed as one document.
SECTION 4. Clerk’s Certification

Within ten (10) days of receipt of the petition the Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all of the qualifications as set forth in Section 3 of this ordinance. Should the petition be found insufficient the petition will be filed in the clerk’s office and the voter who filed the petition will be notified.

SECTION 5. Calling the Recall Election

a. If the petition is certified by the Town Clerk to be sufficient, he or she will submit the same with his or her certification to the Board of Selectmen at their next regular meeting and shall notify the official or officials whose removal is being sought of such action.

b. The selectmen upon receipt of the certified petition shall within ten (10) days time of receipt order an election by secret ballot, pursuant to 30-A MRSA s 2528, to be held not less than 30 nor more than 60 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition, in this case the selectmen may at their discretion provide for the holding of the recall election on the date of the regular municipal election.

SECTION 6. Ballots for Recall Election

Unless the official or officials whose removal is being sought, have resigned within ten (10) days of receipt of the petition by the Board of Selectmen, the ballots shall be printed and shall read “SHALL _______________ BE RECALLED?” with the name of the official whose recall is being sought inserted in the blank space.
SECTION 7. Result Election

In the event of an affirmative vote for removal, such vote shall take effect as of the recording of the vote tabulation into the records.

SECTION 8. Vacancies to be Filled

Any vacancy resulting from removal from office under this ordinance shall be filled in accordance with the provisions contained in the Maine State Statutes.

SECTION 9. Severability

If any part of this ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, then the remainder of this ordinance shall not fail, but shall continue in effect unless the loss of the part found unlawful entirely vitiates the scheme of the ordinance.

Given under our hand this 19th day of March 2005

_______________________________
Arlene Shea, Chair Pittston Selectboard

_______________________________
Wanda Burns-Macomber, Pittston Selectboard

_______________________________
Jane H. Hubert, Pittston Selectboard

Attest: _________________________
Ann Chadwick, Town Clerk
   Town of Pittston, Maine

Adopted by voters the 19th day of March 2005.
Pittston Road Ordinance

ORDINANCE FOR THE CONSTRUCTION, RECONSTRUCTION, IMPROVEMENT, LAYING OUT AND ACCEPTANCE OF STREETS, ROADS, WAYS, OR PARTS THEREOF, IN THE TOWN OF PITTSTON.

Statement of Purpose:

The purpose of this ordinance is to promote the health, safety, and public welfare of the residents of Pittston by setting minimum construction standards for ALL streets and roads.

Section 1: Definition

In this ordinance the present tense includes the future tense, the singular includes the plural includes the singular, "shall" is mandatory and "may" is permissive, and the following words shall have the following meanings:

This ordinance applies to the acceptance of new streets, roads, and/or the relocation of major alteration of existing streets, ways and roads within the limits of the Town of Pittston.

Streets or ways shall comply with the requirements of this ordinance before formal acceptance of the Town. The Town may, however, by vote of the Town Meeting modify certain of these requirements upon concurrent recommendation of the Selectmen and the Planning Board.

A. **Construct:** build, place, move upon, pave, grade, or make other physical improvement operations on land. Excavation, fill drainage and the like shall be included in this definition.

B. **Person:** Any individual, firm, partnership, association, organization, trust, company, corporation, or other legal entity.

C. **Town Way:** Any area or strip of land designated and held by a municipality for the passage and use of the general public by motor vehicle and all town or county ways not discontinued or abandoned.
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Streets or ways shall comply with the requirements of this ordinance before formal acceptance of the Town. The Town may, however, by vote of the Town Meeting modify certain of these requirements upon concurrent recommendation of the Selectmen and the Planning Board.

A. **Construct**: build, place, move upon, pave, grade, or make other physical improvement operations on land. Excavation, fill drainage and the like shall be included in this definition.

B. **Person**: Any individual, firm, partnership, association, organization, trust, company, corporation, or other legal entity.

C. **Town Way**: Any area or strip of land designated and held by a municipality for the passage and use of the general public by motor vehicle and all town or county ways not discontinued or abandoned.
D. **Private Way:** Or what is now called a PUBLIC EASEMENT, is defined in Title 23, Section 3021 as "an easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, and includes all rights enjoyed by the public with respect to private ways created by statute prior.

E. **Privately-Owned Road:** Is a road which serves, or is planned to serve, three or more dwellings, over which the general public has no right to pass by foot or vehicle.

F. **Road:** Any town way or privately owned road, easement, and street.

G. **Private Right of Way:** A general term denoting land or property or interest there in, usually in a strip, acquired for passage by foot or vehicle over which the general public has no right to pass by foot or vehicle.

H. **Standard Specifications:** Refer to the latest version of the "Standard Specifications Highways and Bridges" of the Maine Department of Transportation.

Section 2: Application

A. An application for acceptance of a street, streets, roads, ways or part thereof shall be submitted to the Selectmen upon a form to be prescribed. This form shall include the following information:
1. The full name(s) of the owner(s) of the land containing the street(s) to be accepted.
2. The full name(s) of the developer(s).
3. The full name of the land surveyor and/or professional engineer and registration number(s).
4. A statement of any legal encumbrance on the property.
5. A statement of the proposed length, starting and ending points of the street(s) to be constructed.
6. The book and page numbers as registered in the Kennebec County Registry of Deeds of the property involved and as located on the property maps of the Town of Pittston.

B. The application shall also be accompanied by three (3) sets of plans of the street(s) as follows:
1. Drawn to a scale of 50' to 1".
2. To be on sheets of paper 24' x 36' in size.
3. Shall show the magnetic north.
4. Clearly show the starting and ending points of the street(s) in relation to established, roads, streets or ways.
5. Show the ownership and frontage in feet of all abutting lots.
6. Show the dimensions, both lineal and angular, of all boundaries and easements.
7. Show the waterways and water courses in or on land contiguous to the street(s).
8. Show monument locations as required in Section 3, Paragraph F.

C. The application shall also be accompanied by three (3) sets of profile plan(s) of said street(s) drawn to a longitudinal scale of 50' to 1" and a vertical scale of 5' to 1" showing the profile of the proposed centerline of the street(s), and the profile of the ground. The profile may be on the same sheet as the plan.

D. The application shall also be accompanied by three (3) sets of cross-sections drawn to a scale of 5' to 1". The cross-sections shall be shown at a minimum of 100' intervals, or at lesser intervals as conditions warrant.

E. The application shall include on B, C or D above the proposed provisions for ditching, culverts, bridges, underground utilities and erosion control plan for drainage with respect to waterways and contours. It shall also include special construction features, i.e., guard rails, fencing, curbing, etc.

F. On good cause shown, the Selectmen and Planning Board may waive in whole or in part the requirements of paragraphs C, D and E above.

Section 3: Specifications

A. Street(s) shall have a minimum right of way width of 50'. Easements or a wider right of way shall be provided for slopes and/or drainage, when necessary, beyond the 50 foot limit.

B. Rights of way shall be cleared of trees, stumps, roots, ledge and perishable materials necessary to insure proper drainage. Natural features not interfering with travel, use or drainage and deemed to be desirable by the Selectmen and Planning Board may remain.

C. The traveled way shall be in the approximate center of the right of way and in no case less than 10 feet from either side boundary.

D. The traveled way shall conform to the grades and the cross-sections to within 0.1' of a foot, confirmed by the Selectmen and Planning Board, as shown on the plans of the street(s).

E. Street(s) or way(s) shall be excavated, filled and graded as shown by the plans to the following minimum specifications:

F. A road within a proposed subdivision or intended to serve three or more residential dwelling units shall have a monument set at each point of curvature and angle point on both sides of every road. Monuments shall be a ½" steel pin. The top of the monument shall be 3 inches above finished grade. Written certification by a registered land surveyor that monuments shown on the plans have been accurately set shall be required prior to the subdivision road being approved.
<table>
<thead>
<tr>
<th>Item</th>
<th>Major Street &amp; ways</th>
<th>Minor Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. R/W width</td>
<td>50'</td>
<td>50'</td>
</tr>
<tr>
<td>2. Pavement width</td>
<td>20'</td>
<td>20'</td>
</tr>
<tr>
<td>3. Grades, Max.</td>
<td>9%</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>Min.</td>
<td>5%</td>
</tr>
<tr>
<td>4. Shoulders</td>
<td>4'</td>
<td>4'</td>
</tr>
<tr>
<td>5. Min center-line</td>
<td>radii on curves</td>
<td>800'</td>
</tr>
<tr>
<td></td>
<td>200'</td>
<td></td>
</tr>
<tr>
<td>6. Road base</td>
<td>18&quot; compacted</td>
<td>18&quot;</td>
</tr>
<tr>
<td></td>
<td>Geotex if soil requires it.</td>
<td>Geotex if soil requires it.</td>
</tr>
<tr>
<td>Sub-base, bank</td>
<td></td>
<td></td>
</tr>
<tr>
<td>gravel</td>
<td>6</td>
<td>6&quot;</td>
</tr>
<tr>
<td>Upper base,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>crushed gravel</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(to be screened</td>
<td></td>
<td></td>
</tr>
<tr>
<td>gravel)</td>
<td>6&quot;</td>
<td>6&quot;</td>
</tr>
<tr>
<td>7. Bituminous paving</td>
<td>2&quot;</td>
<td>2&quot;</td>
</tr>
<tr>
<td>8. Road Crown</td>
<td>all - 1/2&quot;/1'</td>
<td>All-1/2&quot;/ 1&quot;</td>
</tr>
</tbody>
</table>
9. Sidewalks where required, width 5'
   Base course, gravel 8''
   Surface 2'' bituminous hot-top

10. Curb radii at

   intersections
   90° intersections 25' 25'
   Less than 90° 30' 30'

1. Aggregate subbase as used above shall be sand or gravel consisting of hard, durable particles which are free from vegetable matter, lumps, or balls of clay, and other deleterious substances. The graduation of the portion which will pass a 3-inch sieve shall meet the grading requirement of the following table:

   Percentage by Weight Passing Square Mesh Sieve

<table>
<thead>
<tr>
<th>Sieve</th>
<th>Sand</th>
<th>Gravel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Designation</td>
<td>1/4 inch</td>
<td>1/4 inch</td>
</tr>
<tr>
<td>1/4 inch</td>
<td>60-100</td>
<td>25-70</td>
</tr>
<tr>
<td>No. 400</td>
<td>0-50</td>
<td>5-30</td>
</tr>
<tr>
<td>No. 200</td>
<td>0-7</td>
<td>0-7</td>
</tr>
</tbody>
</table>
Gravel subbase shall not contain particles of rock which will not pass the 6-inch square mesh sieve. Sand subbase shall not contain particles of rock which will not pass the 4-inch square mesh sieve.

Graduation tests shall conform to ASSHO* Method T-27 or its equivalent except that the material may be separated on the ½ inch sieve. Variations from these standards maybe approved by the Selectmen or the Road commissioner.

1. Hammer Heads may be approved for dead end and turnarounds.

2. Turnarounds on dead-end streets and cul-de-sacs shall meet the minimum requirements of Enclosure #1.

3. The side slopes shall not be greater than 3:1 (3' horizontal to 1' vertical) unless beam type guard rails are installed. If guard rails are used, the side slopes shall not be greater than 1 3/4:1 (1 3/4' horizontal to 1' vertical).

4. The back slopes of ditch sections shall not be greater than 2:1 (2' horizontal to 1' vertical).

5. All slopes necessary to maintain the roadway system shall be included within the right of way limits or within slope easements.

* American Association of State Highway Officials

6. Cul-de-sacs and dead-end streets shall have a maximum, exclusive of the turnaround, of 1,500' in length.

F. Street(s) shall be monumented at every angle point with granite or reinforced concrete markers (6" x 6" x 3' or 6" diameter x 3' minimum size) or brass or iron pins 1/2" x 6" firmly affixed into ledge, to be installed prior to acceptance.
G. Street(s) shall intersect at right angles where possible but under no circumstances at an angle of less than 60 degrees nor more than 120 degrees. The grade of the intersecting streets shall not exceed 5% for a distance of 25 feet from the edge of the travelled way of the throughway.

H. Street intersections and curves shall be so designed as to permit adequate visibility for both pedestrians and vehicular traffic.

I. Slopes and drainage ditches shall be established in such a manner as to prevent erosion and/or washing of silt which will obstruct the flowage through culverts or catch basins. This shall be accomplished in one of the following manners:

1. Loam (2" minimum) and seed, or sod.

2. Ditches of 12% or greater shall be rip rapped with stone, cement slabs or pit screenings.

3. Hay bales or erosion control mesh.

4. Any combination of the above.

J. The developer shall submit specifications to the Selectmen for approval of the base before the pavement is placed. If the road is to be accepted before paving, the specifications shall include the method of guaranteeing the completion and payment, which method shall be certified by the Town Attorney to be legally sufficient.

K. The Selectmen or their Agent who may be a professional engineer, shall check the streets for meeting all requirements of this ordinance previous to action under Section 4. If the Selectmen or their Agent feel that any discrepancies exist in the
project under the specifications, they shall notify the developer of such in writing within five (5) working days. The notifications shall include the corrections to be made. If an agreement cannot be reached, then road acceptance shall not be submitted to the Town Meeting.

Section 4: Acceptance

A. When all requirements of Sections 2 and 3 have been completed, the Selectmen shall call a public hearing on the site of the proposed street. The Planning Board shall attend in an advisory capacity.

B. Following the hearing, a street may be accepted or rejected as a town way by the Town Meeting upon recommendation of the Selectmen and Planning Board.

C. If the street or road is not accepted, the Selectmen shall send a letter within five (5) working days explaining what items are in violation and what steps should be taken to have the street accepted.

D. Prior to acceptance of a street, the owner shall convey by warranty deed to the Town the land within the right of way limits and all slope and drainage casements, which deed will be held in escrow pending acceptance by the Town Meeting.

E. Conflict With Other Requirement

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other regulations, permit, ordinance, or statute. Where this ordinance imposes a greater restriction upon the use of land or structures, the provisions of this ordinance shall control.
F. Enforcement

A. Notice. If the CEO, after consultation with the Road Commissioner, finds that any provision of this ordinance is being violated at any time, before, during, or after construction, the CEO shall notify in writing the person responsible for such violation and the landowner if different from the violator, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuation of construction, removal of unacceptable fill, gravel, or pavement, re-grading and re-compaction, and abatement of any nuisance conditions. Any copy of such notice shall be maintained as a permanent record.

B. Legal Action. When the CEO notice does not result in prompt action to correct or abate the violation, the Selectmen, on their own or after notice from the CEO are hereby authorized and directed to institute any and all actions and court proceedings, either legal or equitable, including the seeking of injunction of violations and the impositions of fines, that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the Town.

C. Fines and Attorney's Fees. Any person who fails to take prompt action to correct or abate the violation after receiving written notice of such violation shall be subject to a fine of up to $50.00. Each day such violation exists after notice
shall constitute a separate offence. If in any action brought in the name of the Town under this ordinance, the Town prevails against the person violating the ordinance, then such person shall be liable and responsible for the Town's legal fees and court costs and other costs involved in bringing such suit or action. All fines imposed under this ordinance shall be recovered to benefit the Town.

Variances and Waivers

A. Where the Planning Board finds that hardships may result from the strict compliance with these standards, it may vary these standards.

B. Separability

If any section, sub section, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Appeals

C. An appeal may be taken within 30 days from the Planning Board's written decision on the application, by any aggrieved party to the Board of Appeals.
Performance Guarantee

A. Performance Guarantee Required. Prior to final approval of a road design, the Planning Board may require that the applicant file with the Board of Selectmen a performance guarantee in an amount sufficient to defray all expenses of the proposed road construction. The conditions and amount of such performance guarantee shall be determined by the Planning Board. The amount shall be at least equal to the total cost of all of road grading, paving, storm drainage, and utilities or other improvements specified on the plan. This guarantee should be in effect for two years of the date of the final road inspection.

1. Types of Guarantees. With submittal of the application, if required by the Planning Board, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for the construction costs.

a. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, or the establishment of an escrow account;
b. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers; and

e. An irrevocable letter of credit from a financial institute establishing funding for the construction of the road from which the Town may draw if construction is inadequate approved by the Municipal Officers.

B. Performance Bond Extension. The Planning Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the applicant can demonstrate to the satisfaction of the Planning Board and the municipal officers good cause for such extension. Such recommendation shall be referred to the Board of Selectmen for official action.

C. Review of Improvements. Before an applicant may be released from any obligation requiring his guarantee of performance the Board of Selectmen will require certification from appropriate technical experts to the effect that all improvements have been satisfactorily completed in accordance with all applicable standard of the Ordinance.
Driveways:

The minimum width of 12' of gravel or pavement surface with a shoulder slope of 6%

Attest:

Dated: 8/2/06

This replaces the Town of Pittston Ordinance for the Acceptance of Streets and Ways approved in SPECIAL TOWN MEETING.
PURPOSE

The purpose of this ordinance is to prevent materials and pathogens that pose a hazard to people and the natural environment, including ground and surface waters in and around the town of Pittston, from being introduced through the process of spreading, storing or dumping of septage.

PROHIBITION

The residential and/or commercial spreading, or storing, or dumping of septage in the Town of Pittston is prohibited.

OPERATIONAL REQUIREMENTS FOR FACILITIES LICENSED UNDER PRIOR ORDINANCES

For any operator that receives a DEP license and a permit from the Town of Pittston to spread, store or dump septage in the Town of Pittston under rules in effect prior to this ordinance, the following operating requirements must be complied with:

1. The site operator will develop and implement an environmental monitoring plan. This shall include, at a minimum:
   
   a. Soil sampling and analysis. Baseline and annual soil analysis shall include: the analytes in 06-096 CMR Chapter 420 “Septage Management Rules”, sec. 6.C; the metals listed in 06-069 CMR Chapter 419 Table 419.5; and fecal coliform by method SM 9221 D and E.
   
   b. Ground and surface water sampling and analysis. This shall be done in accordance with the standards in the Maine Dept. of Environmental Protection Chapter 405, “Water Quality Monitoring, Leachate Monitoring and Waste Characterization”. Monitoring wells for the purpose of testing migration of materials and pathogens that pose a hazard to the watershed will be installed in accordance with the standards in Department of Environmental Protection rule Chapter 405, section 2.A and Chapter 405, section 5. The site operator is responsible for the monitoring of all surface water bodies located on or adjacent to the parcel of land where septage is spread in accordance with 06-096 CMR Chapter 405, section 2.B.

   All sampling and analysis shall be performed annually and must be done by an independent state certified laboratory at the operator's expense. The site operator must present a copy of all data to the Town of Pittston's Planning Board and to the Planning Board of any potentially affected adjacent town immediately upon receipt of results from the independent lab.

2. The site operator shall develop and implement a septage sampling and analytical work plan. This plan shall include, at a minimum, testing of all treated septage for all the analytes listed in 06-096 CMR Chapter 405 Section 6.D and shall also include assay testing for pathogens of concern as identified by the Town of Pittston Planning Board.

   All septage test results must be reviewed and approved by the Town of Pittston’s Planning Board before spreading. Monthly reports of the testing results shall be delivered to the town office and an annual summary of the testing results shall be prepared by a certified professional and shall appear in the annual town report. The testing and reporting will be at the operator’s expense.

   This septage sampling and analytical work plan must be approved by the Town of Pittston Planning Board before the site operator can spread septage.

ATTEST: A TRUE COPY OF AN ORDINANCE ENTITLED "TOWN OF PITTSTON SEPTAGE ORDINANCE" as certified to me by the Municipal Officers of Pittston on

December 14, 1999

Signature
3. The site operator shall ensure that the facility is operated in accordance with the operational standards in 06-096 CMR Chapter 419 Section 4.K and the applicable operational standards in 06-096 CMR Chapter 420.

4. The site operator will surround the entire site with a six-foot high chain-link fence.

5. The site operator will post a bond for corrective action. The bond will be large enough to cover total cleanup of the site in the event of an accidental spreading/dumping of anything that will harm the watershed.

6. The site operator will escrow ten dollars per one thousand gallons of spread/dump septage for site closing costs.

7. Septage spreading will not be allowed if anyone of the following standards is exceeded:
   a. ground or surface water monitoring shows a significant increase in any testing parameters;
   b. any parameter in treated septage exceeds the 06-096 CMR Table 419.5 Column A screening standards, or concentrations of e-coli concentrations greater than two million most probable number per gram of total solids (dry weight basis) or two million colony forming units per gram of total solids (dry weight basis);
   c. any parameter in soil exceeds the 06-096 CMR Table 419.5, column B, Ceiling concentrations or the e-coli standards in 7.b above.

8. The permit from the Town of Pittston to spread, store or dump septage in the Town of Pittston shall be valid for a two year period.

9. Violation of any of the above requirements will result in immediate and permanent loss of license/permit to operate in the Town of Pittston.

SEVERABILITY

If, in the future, any part of this ordinance is found to be invalid in a court of law, all other parts survive.
EFFECTIVE DATE

All parts of this Septage Ordinance will be effective from January 10, 2000. Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, the more restrictive provision will control. The intent of the overlapping and extended provisions of this Septage Ordinance is to provide continuous protection/regulation.

PURPOSE

The purpose of this ordinance is to prevent materials and pathogens that pose a hazard to people and the natural environment, including ground and surface waters in and around the town of Pittston, from being introduced through the process of spreading, storing or dumping of septage. This ordinance provides Municipal Operational Monitoring to ensure that state and municipal septage land application requirements are followed by private operators, if any are approved in the Town of Pittston.

PROHIBITION

The commercial spreading, or storing, or dumping of septage in the Town of Pittston is prohibited, until approval of the voters of the Town of Pittston is obtained. Approval of the voters of the Town of Pittston can only occur by placing the request for approval on the Town Warrant at a Regular Town Meeting.

OPERATIONAL REQUIREMENTS FOR FACILITIES LICENSED UNDER PRIOR ORDINANCES AND OR BY PERMIT OBTAINED FROM THE TOWN OF PITTSTON

For any operator that receives a DEP license and a permit from the Town of Pittston to spread, store or dump septage in the Town of Pittston under rules in effect prior to this ordinance, the following operating requirements must be complied with:

1. Operations at any Septage Land Application Site will be monitored by the Pittston Septage Monitoring Board. This ordinance creates the Pittston Septage Monitoring Board. The Pittston Septage Monitoring Board will, within 180 days; draft a “septage monitoring procedure”, adopt by-laws, and is authorized to create such regulations that may be necessary to implement this ordinance. This Board will consist of no less than five and not more than seven members, nominated from the floor and elected by popular vote at the Town Meeting when this ordinance is voted upon. Board members will serve three year terms and hereafter will be elected at Annual Town Meetings.
2. The site operator will notify the Town Clerk 24 hours in advance of all testing, treating and land application of septage. The Town Clerk will then notify the Chairperson of the Pittston Septage Monitoring Board of these intended activities so that the Septage Monitoring Board may at any time view and monitor these activities without restriction. The purpose for access to any Land Application Site by the Pittston Septage Monitoring Board is to allow monitoring of all activities regulated by Town Ordinance. Such entry onto Septage Land Application Sites may take place during normal business hours (i.e., when septage delivery or land application or septage treatment is being conducted, or between 8:00 a.m. and 4:00 p.m., Monday – Saturday).

3. Fees: The applicant shall pay an initial application fee of $1,000 to the Town to cover the direct costs of reviewing the application and administering town oversight for the first year of site utilization. Beginning in the second year of site utilization, the applicant shall pay $500 per year to the Town to cover these same direct costs, for as long as site utilization is ongoing.

4. The Code Enforcement Officer or his/her agent shall have the right to enter all land application and storage sites for the purpose of inspecting the site for compliance with Town Ordinances and for the purpose of conducting the ongoing monitoring and testing programs required by Town Ordinances. Such entry onto Septage Land Application sites may take place during normal business hours (i.e., when septage delivery or land application or septage treatment is being conducted, or between 8:00 a.m. and 4:00 p.m., Monday – Saturday) to ascertain whether conditions of the Town permit or DEP license are being met at the site.

5. The operator of any Septage Land Application Site shall maintain records which describe the weight, volume and contents of objects filtered from septage before land spreading. The correct disposal of material filtered from septage prior to land application shall be documented and this disposal record shall be available for inspection by the Pittston Septage Monitoring Board and the Pittston Code Enforcement Officer. The Pittston Septage Monitoring Board shall determine the methods and reporting criteria documenting proper disposal.

PENALTIES

An applicant who violates this Ordinance or any other Town of Pittston Ordinance dealing with Septage Land Application, as well as a landowner who knowingly permits such violations to occur, shall be guilty of a civil violation and shall be subject to a civil penalty as prescribed in Title 30-A MRSA, Section 4452. Each day a violation continues after notification shall constitute a separate offence.

SEVERABILITY

If, in the future, any part of this ordinance is found to be invalid in a court of law, all other parts survive.
TOWN OF PITTSTON SEPTAGE ORDINANCE

EFFECTIVE DATE

This Septage Ordinance shall take effect immediately upon passage by the Town and shall supercede Town of Pittston septage ordinances adopted on December 22, 1999 and March 18, 2000. Those ordinances are hereby specifically repealed and replaced by this Ordinance.

PURPOSE

The purpose of this Ordinance is to prevent materials and pathogens that pose a hazard to people and the natural environment, including ground and surface waters in and around the Town of Pittston, from being introduced through the process of spreading, storing or dumping of septage.

This ordinance provides municipal operational monitoring to ensure that state and municipal septage land application requirements are followed by any and all private operators approved by the Town of Pittston.

PROHIBITION

The residential and/or commercial spreading, or storing, or dumping of septage in the Town of Pittston is prohibited. This prohibition shall apply, notwithstanding the provisions of 1 M.R.S.A. §302, to all proceedings, application, and petitions except those which were pending prior to June 23, 1999.

I. SEPTAGE PERMIT APPLICATION PROCEDURE FOR PRE-EXISTING APPLICATIONS

The following procedure shall govern all applications for septage land application sites pending prior to June 23, 1999.

A. Application Procedure

1. An applicant wishing to be permitted to deliver, store, or spread septage at a septage land application site shall complete a 'Septage Application Form' provided by the Town of Pittston.

2. The applicant shall file ten (10) copies of the application, supporting documentation, application fees and escrow monies required by Section I(4) with the Pittston Code Enforcement Officer at least thirty (30) days in advance of the Septage Monitoring Board meeting at which the applicant wishes to be on the agenda.

3. The application shall be accompanied by a non-refundable application fee of thirty-five dollars ($35.00) payable to the Town of Pittston.
4. The application shall be accompanied by a check in the amount of forty thousand dollars ($40,000), payable to the Town of Pittston, which shall be deposited in an account dedicated to expenses incurred in the review of this application. The funds in this account shall allow the Town of Pittston to:

provide necessary expertise in reviewing the application and conducting additional studies that the Pittston Septage Monitoring Board may require to ensure that the public health and natural resources of Pittston would not be at risk by the spreading or storage of septage. Funds shall be withdrawn from this account by the Treasurer of the Town of Pittston only at the Municipal Officers' request. Any interest earned and any remaining balance in the account shall be returned to applicant following approval or denial of the application. If, during the review process, the escrow funds are not sufficient to cover expenses incurred, the Septage Monitoring Board shall determine what additional funds are necessary and shall notify the applicant. The Applicant shall deposit the funds requested with the Town of Pittston within fourteen (14) business days of written notification.

5. The Septage Monitoring Board shall hold a preliminary meeting to determine if the application is complete. If the application is found to be incomplete, the Septage Monitoring Board shall notify the applicant, in writing, within fourteen (14) days of any additional information required.

6. The applicant shall provide the additional information within thirty (30) days of receiving a written request for more information from the Septage Monitoring Board. If the additional information requested is not received, the Board may recommend to the Municipal Officers that the application be denied for lack of sufficient information.

7. Upon receiving all required information, the Septage Monitoring Board shall deem the application complete and shall transmit a complete copy of the application and the entire record applicable to that application, including but not limited to all submissions from the applicant, interested parties and any consultants to the Municipal Officers.

8. The Municipal Officers and the Septage Monitoring Board shall hold a joint 'public hearing' within (30) days of determining that an application is 'complete'.

9. The Septage Monitoring Board shall require notification of the public hearing to be sent by certified mail, return receipt requested, to all owners, of property located within 2,800 feet of the proposed septage spreading site, at least ten (10) days before the scheduled public hearing.

10. Notice shall also be published in newspapers of general circulation in the Town of Pittston at least ten (10) days prior to the public hearing.

11. Notice shall also be posted in three (3) public places designated by the Septage Monitoring Board.
12. The Septage Monitoring Board, after due deliberation, shall render a written recommendation to the Municipal Officers of whether the application should be approved, approved with conditions or denied. The Septage Monitoring Board shall transmit this written recommendation to the Municipal Officers within ten (10) days of its determination. The Municipal Officers, after due deliberation, shall determine whether the application should be approved, approved with conditions or denied. Upon approval of an application by the Municipal Officers, the applicant shall record a copy of that approval, together with any conditions attached thereto, in the Kennebec County Registry of Deeds to be indexed under the name of the property owners with reference to book and page of all proposed sites.

B. Submission Requirements

1. An application for a septage land application site shall include the following:

(a) A complete Septage Application for the Town of Pittston;

(b) A complete application for septage land application prepared for DEP;

(c) An application fee of $35.00 and an escrow fee of $40,000;

(d) A map to scale of the proposed site that clearly indicates property lines, abutters, owners of property within 2,800 feet, existing water wells located within 1,250 feet, primary sand and gravel recharge areas, and groundwater aquifers with twenty (20) foot contours.

(e) A baseline soil analysis of each site conducted in a manner recommended by the Natural Resource Conservation Service and including testing as per Section II.A.1.a of this Ordinance;

(f) A baseline test of all water wells within 1,250 feet of the proposed site. To the extent that an applicant is denied access to any such well, applicant must present the Septage Monitoring Board with a copy of a certified letter sent to the well owner requesting access, and documentation that the well owner has denied access.

(g) A hydrogeologic analysis conducted by an individual(s) qualified by education and experience to conduct such an analysis. This analysis shall be sufficient to determine that the application of septage would meet the standards set forth in this Ordinance and shall include, but not be limited to, the following:

(i) A site-specific geologic literature search.

(ii) Aerial photo interpretation, including a photo lineament analysis to identify potential high-yield aquifers and their recharge areas.
(iii) Documentation of type, depth, yield, status water level and length of casing of any water wells within 1,250 feet of a proposed spreading site.

(iv) Reconnaissance field mapping by a certified geologist of the surficial and bedrock geology of the proposed site and all areas within 1,250 feet, which field mapping shall relate any observed bedrock outcrop fracture orientation and spacing data to the photo lineament analysis.

(v) Documentation of the hydrogeologic setting of the site including, but not limited to, a general description of the depth and expected seasonal variations in depth to the first groundwater table encountered below ground surface, a description of the general direction of groundwater flow up to the point where discharge to surface water occurs, a description of the relationship of the site to any significant aquifers including bedrock aquifers or inferred bedrock aquifers.

(vi) A description of the background groundwater quality at the up gradient edges of the proposed site. This shall include background levels for any constituent regulated by this Ordinance as set forth in Section II.

(vii) A proposed groundwater monitoring plan providing for sampling analysis, and monitoring during operations, and for twenty (20) years following the closure of the site, consistent with Section II.A.1.b. This proposed plan must include proposed horizontal and vertical monitoring wells provisions for monitoring of domestic wells within 1,250 feet of the site, frequency of monitoring, and precision of measurement for each parameter to be measured.

h. A plan for an independent weekly sampling and analysis of the septage as per Section II.A.2 of this Ordinance. The sampling and analysis shall be performed on all septage by a state-certified laboratory chosen by the Septage Monitoring Board.

i. A plan for the submission of all test results required by this Ordinance.

j. The Septage Monitoring Board and Municipal Officers may require such other information, including but not limited to additional testing, as it may deem necessary and appropriate for the evaluation of the application; where the site location is under heavy agricultural use, where there is a potential for leaching of heavy metals, pathogens (including but not limited to e-coli, Hepatitis A, B and C and HIV) and radioactive isotopes from medical and nuclear facilities and chemicals from industries, where the site has previously been used as a waste site, where there are general site conditions including but not limited to slope and proximity to aquatic or wetland resources which warrant such additional testing.
II. OPERATIONAL REQUIREMENTS

Any person or entity that receives a DEP license and a permit from the Town of Pittston to deliver, store or spread septage at a septage land application site in the Town of Pittston, shall comply with the operating requirements outlined herein.

Operations at any septage land application site will be monitored by the Pittston Septage Monitoring Board. The Pittston Septage Monitoring Board will draft a "septage monitoring procedure", adopt by-laws, and is authorized to create such procedural regulations that may be necessary to implement this Ordinance. All procedures or other regulatory provisions adopted by the Septage Monitoring Board shall be no less stringent than the provisions of this Ordinance. This Board will consist of no less than five and not more than seven members, nominated from the floor and elected by popular vote at the Annual Town Meeting. Board members will serve three year terms.

A. Monitoring and Record Keeping

1. The operator of a septage land application site shall develop and implement an environmental monitoring plan which must be submitted annually to the Septage Monitoring Board for review and approval prior to initiating operations at the site. This plan shall include, at a minimum:

(a) Baseline and annual soil sampling and analysis. Baseline and annual soil analysis of a minimum of one composite, representative topsoil sample per two (2) acres of septage land application area shall be performed for the characteristics listed in 06-696 CMR Chapter 420 "Septage Management Rules," sec. 6.C and any amendments thereto; the metals listed in 06-069 CMR Chapter 419, Table 419.5 and any amendments thereto, and fecal coliform by method SM 9221 D and E.

(b) Ground and surface water sampling and analysis. This shall be done in accordance with the standards in the Maine Dept. of Environmental Protection Chapter 405, "Water Quality Monitoring, Lechate Monitoring and Waste Characterization" and any amendments thereto. At least two monitoring wells shall be installed on each site, the number and location of said wells to be determined by an individuals(s) appointed by the Septage Monitoring Board, who is qualified by education and experience to make that determination. At the discretion of the Septage Monitoring Board or at the request of the owner of an existing well located within one thousand (1,000) feet of any site proposed for spreading of septage, the Board may require baseline and annual water analysis of such well. The site operator is responsible for the monitoring of all surface water bodies located on or adjacent to the parcel of land where septage is spread in accordance with 06-096 CMR Chapter 405, Section 2.B and any amendments thereto. Sampling and analysis shall be performed annually prior to initiating operations at the site, and at intervals as required by the Septage Monitoring Board and must be done by an independent
The site operator must present a copy of all data to the Town of Pittston's Septage Monitoring Board, the Pittston Municipal Officers and to the municipal officers of any potentially affected adjacent town immediately upon receipt of results from the independent lab.

2. The site operator shall develop and implement a work plan which provides for sampling and analyzing, by an independent state certified laboratory, of all septage prior to it being spread. This plan shall include, at a minimum, testing of all treated septage for all applicable characteristics listed in 06-096 CMR Chapter 405 Section 6.D and any amendments thereto and shall also include assay testing for pathogens of concern as identified by the Town of Pittston Septage Monitoring Board.

All septage test results must be reviewed and approved by the Town of Pittston's Septage Monitoring Board before spreading. Monthly reports of the testing results shall be delivered to the town office and an annual summary of the testing results shall be prepared by a certified professional and shall appear in the annual town report. The testing and reporting will be at the operator's expense.

This septage sampling and analytical work plan shall be submitted annually to the Septage Monitoring Board for review and approval prior to initiating operations at the site.

3. The site operator will notify the Town Clerk three (3) working days in advance of all testing, treating and land application of septage. The Town Clerk will then notify the Chairperson of the Pittston Septage Monitoring Board or the Board's designee of these intended activities so that the Septage Monitoring Board may at any time view and monitor these activities without restriction. The purpose for access to any land application site by the Pittston Septage Monitoring Board is to allow monitoring of all activities regulated by Town Ordinance. Such entry onto septage land application sites may take place during normal business hours (i.e., when septage delivery or land application or septage treatment is being conducted, or between 8:00 a.m. and 4:00 p.m., Monday - Saturday).

4. The Code Enforcement Officer or his/her agent, as appointed by the Municipal Officers and sworn in by the Town Clerk/Deputy, shall have the right to enter all land application and storage sites for the purpose of inspecting the site for compliance with Town Ordinances and for the purpose of conducting the ongoing monitoring and testing programs required by Town Ordinances. Such entry onto septage land application sites may take place during normal business hours (i.e., when septage delivery or land application or septage treatment is being conducted, or between 8:00 a.m. and 4:00 p.m., Monday - Saturday) to ascertain whether conditions of the Town permit or DEP license are being met at the site.

5. The operator of any septage land application site shall maintain records which describe the weight, volume and contents of objects filtered from septage before land spreading. The correct disposal of material filtered from septage prior to land application shall be
documented. These records shall be provided to the Pittston Septage Monitoring Board and the Pittston Code Enforcement Officer on a monthly basis and shall be kept on file in the Pittston Town Office. The Pittston Septage Monitoring Board shall determine the methods and reporting criteria for documenting proper disposal.

6. Within 30 days of the issuance of a new permit or permit modification by the Town, the applicant shall cause to be filed with the Kennebec County Registry of Deeds the permit issued by the Town and the license issued by the Department of Environmental Protection for the subject land.

B. **Performance Standards.**

1. The site operator must ensure that the facility is operated in accordance with the operational standards in 06-096 CMR Chapter 419 Section 4.K, the applicable standards in 06-096 CMR Chapter 420 and any amendments thereto.

2. The site operator must surround the entire site with a six-foot high chain-link fence, sufficient to restrict access by animals or unauthorized individuals.

3. Spreading of septage shall be allowed only from June 1 to October 15 in any year. Spreading of septage shall not be allowed if it is raining, or if the ground is saturated, frozen or snow covered.

4. The site operator must post a bond for investigative and corrective action. The amount of the bond shall be determined by the Septage Monitoring Board. This bond must be large enough to cover all investigations undertaken by the Town in the event that data demonstrates that the storage and/or spreading of septage poses a potential hazard to the health and safety of the residents, their dependents, wildlife, soil, water, or air quality of the Town of Pittston or any adjacent town and for total cleanup of the site in the event the storage and/or spreading of septage proves to be hazardous to the health and safety of the residents, their dependents, wildlife, soil, water, or air quality of the Town of Pittston or any adjacent town.

5. The site operator must post a bond to cover site closure costs. The amount of the bond shall be determined by the Septage Monitoring Board. This bond must be large enough to cover all costs associated with closing the site.

6. Septage spreading will not be allowed at any site where one of the following standards is exceeded:

   (a) ground or surface water monitoring shows a significant increase in any testing parameters;

   (b) any parameter in treated septage exceeds the 06-096 CMR Table 419.5 Column A screening standards or amendments thereto, or concentrations of e-coli
concentrations greater than two million most probable number per gram of total solids (dry weight basis);

(c) any parameter in soil exceeds the 06-096 CMR Table 419.5, Column B, ceiling concentrations and any amendments thereto, or the e-coli standards outlined in this Ordinance.

7. Any permit from the Town of Pittston to spread, store or dump septage in the Town of Pittston shall be subject to annual review by the Septage Monitoring Board and the Municipal Officers.

(A) At least fourteen (14) days prior to annual review, but not more than thirty (30) days prior thereto, the Septage Monitoring Board shall notify the site operator of the review.

(B) As part of the annual review, the site operator shall submit the following information to the Septage Monitoring Board in writing.

(i) The names of the site operator and the landowner and the date of the original permit.

(ii) A narrative describing the following:

(a) The quantity of septage applied the previous year and the number of acres utilized.

(b) Any problems encountered the previous year.

(c) Any proposed changes in the upcoming years. (NOTE: new acreage requires a new application).

(d) Any physical or chemical changes in the septage.

(e) A septage analysis as required in the initial application.

(f) A soil Ph for each land acre to which the septage was applied.

(g) Such other analysis as DEP, the Septage Monitoring Board or Municipal Officers required in the initial approval.

(C) The site operator shall submit an annual renewal fee in the amount of five thousand dollars ($5,000) to the Treasurer of the Town of Pittston. These funds shall be placed in an interest bearing account by the Town of Pittston referenced to the applicant by social security or federal identification number. The funds in this
account shall allow the Town of Pittston to:

provide necessary expertise in reviewing the status of the site and conducting additional studies that the Pittston Septage Monitoring Board may require to ensure that the public health and natural resources of Pittston would not be at risk by the spreading or storage of septage. Funds shall be withdrawn from this account by the Treasurer of the Town of Pittston only at the Municipal Officers' request. Any interest earned and any remaining balance in the account shall be returned to applicant following completion of the annual review. If, during the review process, the escrow funds are not sufficient to cover expenses incurred, the Septage Monitoring Board shall determine what additional funds are necessary and shall notify the site operator. The site operator shall deposit the funds requested with the Town of Pittston within fourteen (14) business days of written notification.

(D) The Septage Monitoring Board and the Municipal Officers shall review the information submitted by the site operator, the environmental monitoring plan for the previous and current operating year, water and septage sampling records for the previous year, records of disposal of material filtered from septage for the previous years and any other pertinent information relative to site conditions, spreading or dumping activities on the site and septage transport activities.

(E) If the Septage Monitoring Board determines that the conditions of the permit were met for the previous year, the Board shall recommend to the Municipal Officers whether the permit should continue in effect until the next annual review. The Septage Monitoring Board, may in its discretion, recommend modifications to or revocation of the permit, if actions by the operator were in violation of this Ordinance, or if the Board finds that continuation of the permit is harmful to the health and safety of humans, animals, or aquatic life and the preservation and safety of the natural environment. All final determinations on the status of the permit shall be made by the Municipal Officers. The Municipal Officers shall provide the site operator with notice and a hearing, at which the public may comment, prior to revoking the permit.

8. Reasonable measures shall be taken to transport septage to the site in a manner that reduces any odors or other nuisances to residents and businesses along the site access route. Whenever possible, an access route shall be found through the least populated area.

9. If the operator of a septage land application site fails to renew its septage land application permit, a plan must be submitted within 60 days of the expiration of the permit to the Septage Monitoring Board for the removal of all appurtenances incidental to the septage spreading in order to restore the area as nearly as possible to its pre-septage spreading state. Failure to submit such a plan and to implement its agreed upon contents shall constitute a public nuisance and a violation of the Ordinance.
10. Violation of any of the above requirements will result in immediate and permanent loss of license/permit to operate in the Town of Pittston. An applicant who violates this Ordinance or any other Town of Pittston ordinance dealing with septage land application, as well as a landowner who knowingly permits such violations to occur, shall be guilty of a civil violation and shall be subject to a civil penalty as prescribed in Title 30-A M.R.S.A., Section 4452. Each day a violation continues shall constitute a separate offense.

SEVERABILITY AND CONFLICT

If any part of this Ordinance is found to be invalid in a court of law, all other parts shall survive.
Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Town of Pittston ordinance, or state regulation or statute, the more restrictive requirements shall apply.
TOWN OF PITTSTON MORATORIUM ORDINANCE

The TOWN OF PITTSTON adopts a Moratorium Ordinance as follows:

WHEREAS, the Town’s Septage Ordinance dated October 19, 2000 regulated septage and prohibited commercial spreading, storage or dumping of septage and applied retroactive to June 23, 1999, the date the Town received a petition to enact a moratorium on spreading, storage or dumping of septage.

WHEREAS, the Septage Ordinance dated October 19, 2000 was declared invalid by the Kennebec County Superior Court on February 5, 2002. This judicial ruling has left the Town without a means of adequately regulating the spreading, storage and dumping of septage within its borders.

WHEREAS, commercial spreading, storage or dumping of septage poses serious threats to the public health, safety and welfare of the residents of Pittston as a result of the risk of groundwater and surface water pollution, the risk of pollution to other resources and the risk of human and animal exposure to bacteria, pathogens, contaminants and other substances contained in septage, among other risks.

WHEREAS, the Town will need at least 180 days to develop and implement an ordinance which appropriately and adequately regulates septage in order to minimize or eliminate the public health, safety and welfare risks posed by septage.

WHEREAS, in the judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S.A. § 4356(1)(B) and require the following Moratorium Ordinance as immediately necessary for the preservation of the public health, safety and welfare.

NOW, THEREFORE, the Town of Pittston hereby ordains that a moratorium on any new construction or use that involves the commercial spreading, storage or dumping of septage, is hereby imposed, effective immediately and applicable, to the maximum extent permitted by law and subject to the severability clause below, to all proceedings, applications and petitions before the Town on or after June 23, 1999, irrespective of 1 M.R.S.A. § 302. This moratorium shall remain in effect until the effective date of a new septage ordinance or until 180 days from the effective date of this Ordinance, whichever occurs first.

BE IT FURTHER ORDAINED, that the Municipal Officers, the Planning Board, Board of Appeals, the Building Inspector/C.E.O., all Town agencies and all Town employees shall neither accept nor approve applications, plans, permits, licenses and/or fees for any uses subject to this Moratorium Ordinance for said period of time; and

BE IT FURTHER ORDAINED, that to the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid.
EMERGENCY CLAUSE:

In view of the emergency cited in the preamble, this Moratorium Ordinance shall take effect immediately upon passage by the Town, shall apply, to the maximum extent permitted by the law but subject to the severance clause above, to all proceedings, applications and petitions before the Town as of June 23, 1999.

The effective period for this Moratorium Ordinance may be amended or extended by the Board of Selectmen after notice and hearing and consistent with 30-A M.R.S.A. § 4356(3).
TOWN OF PITTSTON

Sexually Oriented Businesses Ordinance

Section 1. Findings

There is convincing documented evidence that sexually oriented businesses, because of their very nature, have negative secondary effects on surrounding areas. Research and studies of municipalities throughout this country indicate that the presence of sexually oriented businesses is consistently and strongly associated with perceived decreases in value of both residential and commercial properties and the facilitation of illicit and undesirable activities. This evidence is relevant to issues facing the Town. It is recognized that sexually oriented businesses can adversely affect the character and quality of life of a town and can be incompatible with surrounding uses, particularly when the sexually oriented businesses are concentrated within a limited geographic area or are located in proximity to residences, day care centers, schools, houses of worship, public parks or recreational areas, or another sexually oriented business. A police power ordinance is a proper and reasonable means of controlling the negative secondary effects of sexually oriented businesses.

Section 2. Purpose

The regulations of this Ordinance are not directed at the content of speech, but are directed at the negative secondary effects of sexually oriented businesses. The purpose of this Ordinance is to regulate the time, place and manner of operation of sexually oriented businesses. It is intended to regulate and to annually license sexually oriented businesses; and to prevent their location in proximity to residences, day care centers, schools, houses of worship, public parks or recreational areas, or another sexually oriented business. Regulation of these uses are necessary to insure that the negative secondary effects will not contribute to the blighting or downgrading of the surrounding areas or the Town at large. The purpose of the Ordinance is not to prohibit sexually oriented businesses from operating in the Town, but to regulate their location and manner of operation, while providing a reasonable opportunity for such businesses to exist.

Section 3. Definitions

The following terms as used in this Ordinance and for the purpose of this Ordinance have the meanings ascribed to them below:

A. "Adult amusement store," means an establishment having as a substantial or significant portion of its sales or stock in trade, sexual devices or printed material including pictures and photographs or films for sale or viewing on premises that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such
materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's primary purpose is to purvey such material.

B. "Adult motion picture theater," means an enclosed building used regularly and routinely for presenting motion picture, DVD and/or other video material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.

C. "Adult entertainment cabaret," means a public or private establishment which: (1) features topless dancers, strippers, or erotic dancers; (2) features entertainers who display "specified anatomical areas", (3) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in, or engage in explicit simulation of, "specified sexual activities," or (4) offers Sadomasochistic acts or Bondage and discipline to patrons.

D. "Adult spa," means an establishment or place primarily in the business of providing a steam bath or sauna, bathing or hot tub services, or "rub-down" or other massage services, and at which (1) a person's specified anatomical areas are not touched, rubbed, massaged or manipulated in any manner by another person with or without the aid of any instrument or device, or (2) a person's specified anatomical areas are exposed while that person touches, rubs, massages or manipulates any part of the body of another person, with or without the aid of any instrument or device, or (3) specified sexual activities are permitted to occur.

E. "Sexually oriented business," means adult amusement stores, adult movie theaters, adult entertainment cabarets, or adult spas, as defined herein, or any business where specified sexual activities are displayed, depicted, described or simulated as a regular and substantial part of its operation.

F. "Erotic dance," means a form of dance, which seeks, through one or more dancers, to arouse or excite the sexual desire of a patron or patrons.

G. "Residence," means any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or a mobile home.

H. "Sadomasochistic acts," or "Bondage and discipline," means respectively, flagellation, torture or punishment by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained while so clothed or by a person so clothed.
I. "Sexual device," means a device or object the primary purpose of which is to provide direct sexual stimulation to male or female genitals or anus.

J. "Specified criminal activity," means a criminal conviction for any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession of distribution of child pornography; public lewdness, indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:

1. less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of less than one year;

2. less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of one year or more;

3. less than (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are for two or more offenses or combination of offenses occurring within any twenty-four (24) hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.

K. "Specified sexual activities," means:

1. Human genitals in a state of sexual stimulation or arousal;

2. Acts of human masturbation, sexual intercourse, any sexual act or sexual contact as defined by Maine law, or sodomy;

3. Fondling or other touching of human genitals, pubic region, buttock or female breast.

L. "Specified anatomical areas," means:

1. Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttocks or (c) female breast below a point immediately above the top of the areola; and

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
Section 4. License required

A person wishing to operate a sexually oriented business shall obtain an annual license (a) prior to opening the person’s establishment, (b) prior to expiration of the person’s current annual license, and (c) prior to the expiration of the amortization period established in Section 14 of this Ordinance if a sexually oriented business is in existence on March 19, 2005.

A. Application. An applicant for a sexually oriented business license shall:

1. Complete and file an application prescribed by the Board of Selectmen;

2. Deposit a license fee of $250 in advance with the Town Clerk;

3. Submit the completed application to the Town Clerk, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;

4. File a sworn affidavit, which states the names of all owners, officers, managers or partners of the applicant, and their places of residence at the time of the application and for the immediately preceding three (3) years.

5. File the release authorized by 16 M.R.S.A. §620(6) (Criminal History Record Information Act) with the application, for the applicant and each officer, owner, manager or partner of the applicant;

6. Submit evidence of right, title or interest in the premises in which the sexually oriented business will be sited, along with the written consent of the owner of the premises for such use if applicant is not the owner;

7. State the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers.

8. Submit evidence of compliance with Section 10 of this Ordinance and evidence that there is no basis for denial of a license to applicant under the standards listed in Section 6 of this Ordinance.

B. Investigation of applicant, officers. Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:

1. The Town Clerk, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town officials referenced in paragraphs 2 through 5 below. The Town Clerk shall also immediately consult with the Chairman of the Board of Selectmen and then arrange for public notice of a public
hearing on the application in a newspaper of general circulation and by mail to owners of lots within 1000 (one thousand) feet of the proposed location of the structure, at least ten (10) days prior to the public hearing before the Board of Selectmen. The costs of the publication, certified mail postage, and other expenses incurred related to the hearing shall be paid by the applicant. After receipt of required reports from Town officials, the Town Clerk shall forward the application and other documents to the Board of Selectmen for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Town Clerk and a decision shall be made within three (3) business days thereafter.

2. The Health Officer, within fifteen (15) days of notice, shall inspect the location of proposed location to determine whether the applicable laws relating to health and safety have been satisfied and then report findings in writing to the Town Clerk;

3. The Fire Chief, within fifteen (15) days of notice, shall inspect the location of proposed location of the business to determine if applicable State and fire and safety regulations have been satisfied and then report findings in writing to the Town Clerk;

4. A constable or other law enforcement officer, within (15) fifteen days of notice, shall investigate the applicant, including the criminal history record information required under Section 5 (A)(5), and then report findings in writing to the Town Clerk; and

5. The Code Enforcement Officer, within (15) fifteen days of notice, shall verify that the proposed premises of the establishment will comply with Section 10 of this Ordinance and with all other applicable State and Town laws and land use codes of the Town and then report findings in writing to the Town Clerk.

C. Issuance of license. The Board of Selectmen, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Ordinance. The license shall be issued upon determination of the Board of Selectmen, based upon the record, including evidence and testimony at the public hearing, that the application meets the requirements of this Ordinance. The license may not be transferred or assigned.

Section 6. Standards for Denial

An application for a sexually oriented business license shall be denied by the Board of Selectmen in the following circumstances:

A. the applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;

B. the applicant is an individual who is less than 18 years of age;
C. the applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the Town Clerk or Board of Selectmen that is reasonably necessary to determine whether the license is issueable;

D. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five (5) years;

E. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has had a license granted pursuant to this Ordinance or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five (5) years;

F. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has committed any Specified Criminal Activity as defined herein;

G. the site on which the sexually oriented business is proposed is a prohibited site under Section 10; or

H. the application in any other way fails to meet the requirements of this Ordinance.

Section 7. Standards for Suspension; Revocation

A sexually oriented business license may be suspended or revoked by the Board of Selectmen after notice and hearing upon a finding that the licensee has violated any provision of this Ordinance.

Section 8. Age Restriction

No sexually oriented business may permit any person under the age of 18 years on the premises in which the sexually oriented business is located.

Section 9. Display of License; Prices charged and names of owners or officers to be prominently displayed

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued. Sexually oriented business licensees must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the names of owners and officers of the sexually oriented business and a complete list of fees, prices and charges for all food, beverages, goods, wares, merchandise and/or services offered by the business.
Section 10. Prohibited Sites, Site Requirements

A. A sexually oriented business may not be sited within 1,000 (one thousand) feet of the lot lines of any of the following:

1. a church, synagogue or other house of religious worship;
2. a public or private elementary or secondary school;
3. a residence;
4. a day care facility;
5. a public park or public recreational facility;
6. another sexually oriented business.

The distance cited in this section shall be measured between any structure used as a sexually oriented business and the lot line of the site of the use listed in (1) through (6) above at their closest points.

B. A sexually oriented business must have a separate driveway entrance, parking area and signage at least 200 (two hundred) feet from any driveway entrance or signage of any of the following:

1. a church, synagogue or other house of religious worship;
2. a public or private elementary or secondary school;
3. a residence;
4. a day care facility;
5. a public park or public recreational facility;
6. another sexually oriented business.

C. A sexually oriented business must have a continuous 6 (six) foot high solid fence along all boundary lines it has in common with any of the following:

1. a church, synagogue or other house of religious worship;
2. a public or private elementary or secondary school;
3. a residence;
4. a day care facility;
5. a public park or public recreational facility;
6. another sexually oriented business.

D. A lawful existing sexually oriented business, at the time of renewal of a not yet expired valid license, shall not be in violation of the site requirements of Section 10 by the subsequent location of a residence, day care center, school, house of worship, or public park or recreational area, at a site that would otherwise conflict with the site requirements of this Section.
Section 11. Interior Layout of Sexually Oriented Business

A. Any sexually oriented business having available for customers, patrons or members, any booth, room or cubicle for any private viewing of any adult entertainment shall comply with the following:

1. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business, and shall be unobstructed by any door, lock or other control-type device.

2. Construction. Every booth, room or cubicle shall meet the following construction requirements:
   a. Each booth, room or cubicle shall be separated from adjacent booths, rooms, and cubicles and any non-public areas by a wall.
   b. Each booth, room or cubicle must have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room or cubicle.
   c. All walls shall be solid and without any openings, extended from the floor to a height of not less than 6 (six) feet and be light-colored, non-absorbent, smooth textured and easily cleanable.
   d. The floor must be light-colored, non-absorbent, smooth textured and easily cleanable.
   e. The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

3. Occupants. No more than one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

B. Any adult motion picture theater shall comply with the following requirements:

1. Aisle lights and overhead lights in the theater shall be kept on during business hours and shall illuminate to a minimum of ten (10) foot candles except when motion pictures are being shown;

2. No standing shall be allowed in the theater;

3. Signs shall be posted warning patrons that sexual activity is prohibited in the theater, and informing them of the presence of surveillance cameras; and
4. Theater employees shall regularly patrol the theater during business hours and eject persons found to be engaged in sexual intercourse, a sexual act, sexual contact or any criminal activity. Incidents of sexual intercourse, sexual acts, sexual contact or criminal activity in the theater shall be immediately reported to a law enforcement officer.

C. Rest room must be individual rooms and shall not contain facilities for more than one person at a time. No more than one person may be in the rest room with the door closed at any time.

Section 12. Prohibited Activities

A. All acts of public indecency, as defined in 17-A M.R.S.A. s854, are prohibited in sexually oriented businesses.

B. Dancers, performers, employees, owners or officers of a sexually oriented business shall not fondle or caress any patron or client, and patrons and clients shall not fondle or caress dancers, performers, employees, owners or officers of the sexually oriented business.

C. Dancers, performers, employees, owners or officers of a sexually oriented business shall not commit or perform, or offer or agree to commit or perform, any specified sexual activity either alone or with each other or any patron or client of the sexually oriented business; and

D. Patrons and clients of sexually oriented businesses shall not commit or perform, or offer or agree to commit or perform, any specified sexual activity either alone or with any dancer, performer, employee, owner, officer, patron or client of the sexually oriented business.

Section 13. Dancers and Other Performers

A sexually oriented business must observe the following restrictions on dancers and the performers:

A. All dancing or other performances must occur on a platform intended for that purpose which is raised at least two (2) feet from the level of the floor.

B. No dancing or other performance shall occur closer than ten (10) feet from any patron, and no patron shall be allowed to be closer than ten (10) feet from any dancer or other performer.
Section 14. **Amortization of Sexually Oriented Businesses Lawfully Existing As of the Date of the Adoption of this Ordinance**

A sexually oriented business lawfully existing on March 19, 2005, shall be permitted to continue to operate as a lawfully non-conforming use without complying with the licensing requirements, location requirements and other terms and standards of this Ordinance for a period of time determined by consideration of the length of time during which the sexually oriented business lawfully existed prior to the adoption of this Ordinance. This amortization period shall be determined according to the following table:

<table>
<thead>
<tr>
<th>Months of Operation of Existing Business prior to March 19, 2005</th>
<th>Period of time after March 19, 2005 before existing business must fully comply with this Ordinance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 6 months</td>
<td>6 months</td>
</tr>
<tr>
<td>6 months to 36 months</td>
<td>one year</td>
</tr>
<tr>
<td>36 months to 72 months</td>
<td>two years</td>
</tr>
<tr>
<td>72 months to 120 months</td>
<td>three years</td>
</tr>
<tr>
<td>greater than 120 months</td>
<td>five years</td>
</tr>
</tbody>
</table>

During the amortization period, a lawfully existing sexually oriented business may not be increased, enlarged, extended or altered, including any increase or change in the nature of products or services provided to customers, except that the use may be changed to a conforming use. At the end of the amortization period, an existing sexually oriented business shall have either obtained a license in full compliance with the Ordinance or have ceased operation.

Section 15. **Enforcement**

A violation of this Ordinance is a civil violation and the civil penalties and remedies under Section __________ of this Code shall apply. The owner of the premises on or in which the sexually oriented business is located, who is not the licensee of the sexually oriented business, is jointly and severally liable with the licensee for any violation of Sections 10 through 13. The Ordinance shall be enforced by the Code Enforcement Officer, in conjunction with the Board of Selectmen. If court action is required to enforce this Ordinance, the Town shall be awarded its enforcement costs, including its reasonable attorneys’ fees.

Section 16. **Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a
separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 17. Appeals

An appeal from any final licensing, denial, suspension or revocation decision of the Board of Selectmen may be taken by an aggrieved party to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure. Service of Process shall be served on the Town Clerk or any Selectman. The Town shall file its responsive pleadings and record of proceedings with the Court not later than ten (10) business days after service of the summons and complaint. Additionally, the Town shall submit its responsive brief within fourteen (14) days after receipt of the plaintiff’s brief, and shall move for an expedited hearing. All enforcement action, if any, shall be stayed during the pendency of the Rule 80B appeal.

We hereby certify that the forgoing is a true copy of the Sexually Oriented Businesses Ordinance of the Town of Pittston relating to the licensing and regulations of sexually oriented businesses as enacted at the Annual Pittston Town Meeting on March 19, 2005.

Given under our hand this 19th day of March 2005

_______________________________
Arlene Shea, Chair Pittston Selectboard

_______________________________
Wanda Burns-Macomber, Pittston Selectboard

_______________________________
Jane H. Hubert, Pittston Selectboard

Attest: __________________________
Ann Chadwick, Town Clerk
Town of Pittston, Maine

Date: March 19, 2005

SEAL/STAMP
Section 1. Purposes

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect 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.

Section 2. Authority

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

Section 3. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.

Section 4. Effective Date and Repeal of Formerly Adopted Ordinance

This Ordinance, which was adopted by the Town of Pittston on March 16, 1991, shall not be effective unless approved by the Board of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Town Clerk, shall be forwarded to the Board of Environmental Protection for approval. If the Board of Environmental Protection fails to act on this Ordinance within forty-five (45) days of its receipt of the Ordinance, it shall be deemed approved. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on March 16, 1985 is hereby repealed. Any application for a permit submitted to the Town of Pittston within the forty-five (45) day period shall be governed by the terms of this Ordinance if the
Ordinance is approved by the Board of Environmental Protection.

Section 5. Availability

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

Section 6. Severability

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

Section 7. Conflicts with Other Ordinances

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

Section 8. Amendments

This Ordinance may be amended by majority vote of the voters of the Town of Pittston at a regular or special town meeting. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Board of Environmental Protection following adoption by the Town of Pittston and shall not be effective unless approved by the Board of Environmental Protection. If the Board of Environmental Protection fails to act on any amendment within forty-five (45) days of the Board's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town of Pittston within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Board.

Section 9. Districts and Zoning Map

A. Official Shoreland Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is made a part of this Ordinance:

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. Stream Protection
B. Scale of Map

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the Pittston Town Office.

D. Changes to the Official Shoreland Zoning Map

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Board of Environmental Protection.

Section 10. Interpretation of District Boundaries

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Section 11. Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

Section 12. Non-conformance

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

B. General

1. Transfer of Ownership: Non-conforming structures, lots,
and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

2. **Repair and Maintenance:** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations 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. **Expansions:** 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.

Further Limitations:

a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.

b. Construction or enlargement of a foundation beneath the existing structure shall not be 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, basing its decision on the criteria specified in subsection 2. 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.

c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

2. **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.

3. 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 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 one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board 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. Any non-conforming structure which is damaged or destroyed by 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 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.

4. Change of Use of a Non-conforming Structure The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body 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, flood plain management, archaeological and historic resources, and commercial fishing, and other functionally water-dependent uses.

D. Non-conforming Uses

1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 12(C)(1)(a) above.

2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12 (C) (4) above.

E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot 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 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 or more principal uses or structures existed on a single
lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

### Section 13. Establishment of Districts

#### A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, need not be included within the Resource Protection District.

1. 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) as of January 1, 1973.

2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain 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. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

4. 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.
A. Other important wildlife habitat;

B. Natural sites of significant scenic or esthetic value;

C. Areas designated by federal, state or municipal governments as natural areas of significance to be protected from development; and

D. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the Town of Pittston after consultation with the Maine Historic Preservation Commission.

B. Limited Residential District

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

C. Limited Commercial District

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, river or saltwater body, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.
Section 14. **Table of Land Uses**

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map. Key to Table 1:

- Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)
- No - Prohibited
- PB - Requires permit issued by the Planning Board
- CEO - Requires permit issued by the Code Enforcement Officer
- LPI - Requires permit issued by the Local Plumbing Inspector

Abbreviations:

- RP - Resource Protection
- LR - Limited Residential
- LC - Limited Commercial
- SP - Stream Protection
<table>
<thead>
<tr>
<th>LAND USES</th>
<th>SP</th>
<th>RP</th>
<th>LR</th>
<th>LC</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>2. Motorized vehicular traffic on existing roads and trails</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>3. Forest management activities except for timber harvesting</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>4. Timber harvesting</td>
<td>yes</td>
<td>CEO</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>5. Clearing of vegetation for approved construction and other allowed uses</td>
<td>CEO</td>
<td>CEO</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>6. Fire prevention activities</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>7. Wildlife management practices</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>8. Soil and water conservation practices</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>9. Mineral exploration</td>
<td>no</td>
<td>yes²</td>
<td>yes²</td>
<td>yes²</td>
</tr>
<tr>
<td>10. Mineral exploration including sand and gravel extraction</td>
<td>no</td>
<td>PE³</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>11. Surveying and resource analysis</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>12. Emergency operations</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>13. Agriculture</td>
<td>yes</td>
<td>PB</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>14. Aquaculture</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>yes</td>
</tr>
<tr>
<td>15. Principal structures and uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. One and two family residential</td>
<td>PB⁶</td>
<td>no</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>B. Multi-unit residential</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>C. Commercial</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
</tr>
<tr>
<td>D. Industrial</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>E. Governmental and Institutional</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
</tr>
<tr>
<td>F. Small non-residential facilities for educational, scientific, or nature interpretation purposes</td>
<td>PB⁶</td>
<td>PB</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>16. Structures accessory to allowed uses</td>
<td>PB⁶</td>
<td>PB</td>
<td>CEO</td>
<td>CEO</td>
</tr>
</tbody>
</table>
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland
   a. Temporary
   b. Permanent

18. Conversions of seasonal residences to year-round residences

19. Home occupations

20. Private sewage disposal systems for allowed uses

21. Essential services

22. Service drops, as defined, to allow uses

23. Public and private recreational areas involving minimal structural development

24. Individual, private campsites

25. Campgrounds

26. Road and driveway construction

27. Parking facilities

28. Marinas

29. Filling and earthmoving of<10 cubic yards

30. Filling and earthmoving of>10 cubic yards

31. Signs

32. Uses similar to allowed uses

33. Uses similar to allowed uses requiring a CEO permit

34. Uses similar to uses requiring a PB permit

1. In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards.

2. Requires a permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
Section 15. Land Use Standards

A. Minimum Lot Standards

<table>
<thead>
<tr>
<th>Lot Area (sq.ft.)</th>
<th>Minimum Shore Frontage (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential per dwelling unit</td>
<td></td>
</tr>
<tr>
<td>a. Within the Shoreland Zone Adjacent to Tidal Areas</td>
<td>2 acres</td>
</tr>
<tr>
<td>b. Within the Shoreland Zone Adjacent to Non-Tidal Areas</td>
<td>2 acres</td>
</tr>
<tr>
<td>Governmental, Institutional, Commercial or Industrial per principal structure</td>
<td></td>
</tr>
<tr>
<td>a. Within the Shoreland Zone Adjacent to Tidal Areas</td>
<td>2 acres</td>
</tr>
<tr>
<td>b. Within Shoreland Zone Adjacent to Non-tidal Areas</td>
<td>2 acres</td>
</tr>
<tr>
<td>Public and Private Recreational Facilities</td>
<td></td>
</tr>
<tr>
<td>a. Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas</td>
<td>2 acres</td>
</tr>
</tbody>
</table>
2. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

3. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

4. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

5. If more than one residential dwelling unit or more than one principal commercial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of great ponds and rivers that flow to great ponds, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

2. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

3. Principal or accessory structures and expansions of existing structures which are permitted 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.

4. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

5. 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.

6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

2. The location shall not interfere with existing developed or natural beach areas.

3. The facility shall be located so as to minimize adverse effects on fisheries.

4. 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.

5. 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.

6. 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.

7. 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.

D. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:
1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites

Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

2. 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 seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

3. 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.

4. 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.

5. 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.

6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.
F. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone:

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
l. Printing

G. Parking Areas

1. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities 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.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.

3. In determining the appropriate size of proposed parking facilities, the following shall apply:

a. Typical parking space: Shall be no less than ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

b. Internal travel aisles: Shall be no less than twenty (20) feet wide.
H. Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Roads and driveways shall be set back at least one-hundred (100) feet from the normal high-water line of a great pond or a river that flows to a great pond, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the 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. 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 due to an operational necessity.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.

3. New roads and driveways are prohibited in a Resource Protection 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.

4. 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 Q.

5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.

6. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at
least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. 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.

7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>Road Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>

b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

c. 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 downslope from a line perpendicular to the centerline of the road.

d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

I. Signs

1. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs
relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.

3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

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

5. Signs relating to public safety shall be permitted without restriction.

6. No sign shall extend higher than twenty (20) feet above the ground.

7. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (Rules).

L. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

2. The installation of essential services 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.

M. Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph 4 below.

2. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.

3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

   a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

   b. The final graded slope shall be two to one (2:1) slope or flatter.

   c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam
shall be obtained from off-site sources if necessary to complete the stabilization project.

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

N. Agriculture

1. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972.

2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this Ordinance 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. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance of other water bodies, nor; within twenty-five (25) feet, horizontal distance, of tributary
streams, and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

O. Timber Harvesting

1. In a shoreland area zoned for resource protection abutting a great pond, timber harvesting shall be limited to the following:

   a. Within the strip of land extending 75 feet inland from the normal high-water line there shall be no timber harvesting, except to remove safety hazards.

   b. Beyond the 75 foot "no-harvest" strip referred to in paragraph a. 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 1 inch in diameter at 4 1/2 feet above the ground level be reduced to less than 30 square feet per acre.

2. Except in areas as described in Paragraph 1 above, timber harvesting shall conform with the following provisions:

   a. 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:

      i. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of 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.

      ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, 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 (5000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total
volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

b. No accumulation of slash shall be left within fifty (50) feet 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 shall be removed.

c. Timber harvesting equipment shall not use stream channels as travel routes except when:

i. Surface waters are frozen; and

ii. The activity will not result in any ground disturbance.

d. 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.

e. 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.

f. 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 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. 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 from the normal high-water line of a water body or upland edge of a wetland.

P. Clearing of Vegetation for Development

1. Within a shoreland area zoned for Resource Protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance,
inland from the normal high-water line, except to remove safety hazards. Elsewhere, in any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Paragraph 1, 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 seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or stream or river flowing to a great pond, the width of the foot path shall be limited to six (6) feet.

b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

<table>
<thead>
<tr>
<th>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - 4 in.</td>
<td>1</td>
</tr>
<tr>
<td>&gt;4 - 12 in.</td>
<td>2</td>
</tr>
<tr>
<td>&gt;12 in.</td>
<td>4</td>
</tr>
</tbody>
</table>

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25-foot square area.

Note: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

\[(3 \times 1) + (3 \times 2) + (3 \times 4) = 21\] points
Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points \((21 - 12 = 9)\) may be removed from the plot provided that no cleared openings are created.

Notwithstanding the above provisions, no more than 40\% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

c. In order to protect water quality and wildlife habitat, adjacent to great ponds, and streams and rivers which flow to great ponds, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a. above.

d. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.

e. 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.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, 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, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25\% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development.

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged,
except as permitted by this Ordinance.

5. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

Q. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

   a. Mulching and revegetation of disturbed soil.
   
   b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
   
   c. Permanent stabilization structures such as retaining walls or riprap.

2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

   a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

   b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

   c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures
may include the use of staked hay bales and/or silt fences.

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

R. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

S. 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.

T. 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, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.
Section 16. Administration

A. Administering Bodies and Agents

1. Code Enforcement Officer

A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. Board of Appeals

A Board of Appeals shall be created in accordance with the provisions of Title 30-A Section 2691.

3. Planning Board

A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use.

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Town of Pittston, to the appropriate official as indicated in Section 14.

2. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.

3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.
D. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
8. Will avoid problems associated with flood plain development and use; and
9. Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State
law which the municipality is responsible for enforcing.

E. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

F. 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 or any previous Ordinance, has been issued by the Pittston Planning Board. Following installation of service, the company or district shall forward the written authorization to the Pittston Planning Board, indicating that installation has been completed.

G. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

a. Administrative Appeals: To hear and decide 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 enforcement or administration of this Ordinance.

b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals

Variances may be permitted only under the following conditions:

a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

c. The Board shall not grant a variance unless it finds that:

(1) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
(2) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

(i) That the land in question cannot yield a reasonable return unless a variance is granted;

(ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

(iii) That the granting of a variance will not alter the essential character of the locality; and

(iv) That the hardship is not the result of action taken by the applicant or a prior owner.

d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

e. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

f. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

3. Appeal Procedure

a. Making an Appeal

(1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
(2) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

(i) A concise written statement indicating what relief is requested and why it should be granted.

(ii) 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) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(4) The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. Decision by Board of Appeals

(1) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

(2) 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 affect 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.

(3) The person filing the appeal shall have the burden of proof.

(4) The Board shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
(5) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

4. 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 State laws within thirty (30) days from the date of any decision of the Board of Appeals. (5.) Reconsideration The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

H. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Pittston Board of Selectmen and be maintained as a permanent record.

b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control.
within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Pittston Board of Selectmen, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Pittston Board of Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4506.

Section 17. Definitions

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

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 green house products. Agriculture does not include forest management and timber harvesting activities.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of
persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above the ground level and inclusive of bark.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Coastal wetland - all tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; 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 which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two lots or less.

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services - the construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals,
hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a structure** - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

**Expansion of use** - the addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

**Family** - one or more persons occupying a premises and living as a single housekeeping unit.

**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 application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Foundation** - the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

**Freshwater wetland** - freshwater swamps, marshes, bogs and similar areas which are:

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas,
navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. Great pond classified GPA - any great pond classified GPA, pursuant to Title 38 Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Height of a structure - the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

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.

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 gravel pads, parking areas, fire places, or tent platforms.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, 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.
Minimum lot width - the closest distance between the side lot lines of a lot. Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, 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. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland-

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for
seven (7) months or more in any period of twelve (12) consecutive months.

**Principal structure** - a 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.

**Public facility** - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Recent flood plain soils** - the following soil series as described and identified by the National Cooperative Soil Survey:

- Alluvial
- Fryeburg
- Lovewell
- Podunk
- Suncook

- Cornish
- Hadley
- Medomak
- Rumney
- Sunday

- Charles
- Limerick
- Ondawa
- Saco
- Winooski

**Recreational facility** - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

**Recreational vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**Replacement system** - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

**Residential dwelling unit** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

**Residual Basal Area** - the sum of the basal area of trees remaining on a harvested site.

**Riprap** - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.
River - a free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
   a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
   b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service
   a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
   b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

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 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.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent 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.

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. The term includes structures
temporarily or permanently located, such as decks and satellite dishes.

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 - a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting - the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Tributary stream - a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Upland edge - the boundary between upland and wetland.

Vegetation - all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 above ground level.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river, stream or tidal area.

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.

Wetland – a freshwater or coastal wetland.

Wetlands associated with great ponds and rivers – wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which 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. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.
TOWN OF PITTSSTON

Ordinance 94.1

An Ordinance to License the Collection, Transportation and Disposal of Solid Waste and Promote Recycling in the Town of Pittston, Maine.

SECTION

1. Purpose
2. Definitions
3. Licenses
4. Recycling Collection
5. Violations
6. Penalties

Section 1. PURPOSE AND SCOPE

The intent of this ordinance is to protect the health, safety and general well-being of the residents of the town of Pittston by licensing and regulating commercial collectors/haulers of solid waste; to require said haulers provide recycling services to the residents of Pittston; to preserve and enhance the quality of our common environment; and to comply with State waste reduction laws.

Section 2 DEFINITIONS

2.1. Commercial Waste Collector/Hauler. "Commercial Waste Collector" or "Hauler", means any person engaged in the collection and transportation of solid waste for a fee or other compensation (within the town of Pittston, ME).

2.2. Dispose; Disposal. "Dispose means to discharge, dispose, deposit, dump, incinerate, spill or place any solid waste into or on any land facility or deliver to a facility for incineration. Disposal means the discharge, disposal, deposit, dumping, spilling or placing of any solid waste.

2.3. Person. "Person" means any individual, firm, corporation, partnership, association or any other legal entity or agents of any of the above, and the term shall include the singular and plural as appropriate.

2.4. Recycling. "Recycling" means the separation, collection, recovery, reprocessing, and reuse or resale of materials or residues that would otherwise be disposed of. Recycling includes reuse in the same form or as part of a different product, other than through combustion or use as fuel for the generation of electricity.

2.5. Recyclable Materials. for the purpose of this ordinance, "recyclable materials" means those materials, or categories of materials identified by the town or the hauler as having a viable secondary reuse or needing to be separated from the waste stream
for environmental safety reasons. The materials/categories covered under this ordinance can include but are not limited to: source separated ferrous and non-ferrous metals, bi-metal cans, clear glass bottles and jars, natural HDPE plastic (#2) milk containers, newspapers, organics, cardboard, office paper, magazines, catalogs, phone directories, and tires. This list may be amended from time to time as new markets or end-uses develop.

2.6. Resident "Resident" is any person who owns or rents a dwelling or other property approved for occupation or for conducting business within the Town of Pittston.

2.7. Trash. For the purpose of this ordinance, trash means solid waste.

2.8. Solid Waste. For the purpose of this ordinance, "Solid Waste" means useless, unwanted solid materials with insufficient liquid content to be free flowing. Other common words used for solid waste include trash, rubbish, garbage, junk, refuse, etc. Solid Waste includes refuse-derived fuel, but does not include source separated recyclables/compostables, septic tank sludge, or waste water treatment sludge.

2.9 Per Bag Fee. For the purpose of this ordinance, "Per Bag Fee" means the hauler must charge their resident clients a set fee for each bag of trash to be disposed of regardless of whether the client participates in recycling or not.

Section 3. LICENSES;

3.1. Required. After ______________________ no person/hauler may engage in the business of collecting or transporting trash for compensation within the town of Pittston unless that hauler has obtained a commercial trash haulers license from the Pittston Select Board.

3.2. The application form, (see attached) available from the Pittston Town office, shall be made to the Select Board and shall require the following information:

1. the name and business address of the hauler;
2. valid registration numbers of each vehicle to be used;
3. a list of their Pittston business and residential clients.
4. proof of proper insurance of all licensed vehicles.
5. such further information as the Town of Pittston might reasonably require.
6. the per bag fee to be charged all customers.

3.3 Contents of the License. The license shall contain the name and business address of the hauler and the registration numbers of the vehicles to be used. The license will contain a warning that said license may be revoked and collection operations ceased, by the Select Board for any violation of this ordinance.

3.4 Term of issue. All applications shall be submitted within 30
days of passage of this ordinance. All applications will be reviewed within 30 days of receipt. All approved hauler licenses shall expire one year from that date and require annual renewal.

3.5 Fees. There will be no initial fee for this application. However, each collection vehicle to be operated in Pittston by the same applicant must be licensed. The Select Board may not issue a license prior to the receipt of complete application form, or a renewal of license without a complete recycling report.

3.5 Noncompliance with this ordinance by any trash collector/hauler will result in penalty and/or fines listed below.

3.6 All fees or penalty fees received by the Town shall be used for the purpose of solid waste reduction and management.

3.7 Recipients of a license shall receive a permit sticker/decal for each vehicle which is to be prominently displayed on each vehicle at all times within the Town of Pittston.

3.8 Amendment of License. If during the term of issue of any license issued under this section there is any reason to add to or amend the information provided to the Select Board, it shall be the responsibility of the license holder to notify the Select Board of those additions or amendments in a timely manner.

3.9 Disposal. Each licensed trash collector shall be responsible for the proper disposal of all the trash that s/he collects within the Town of Pittston. A per capita fee is paid by Pittston for access to disposal; therefore, trash collected in Pittston should be disposed of at the Hatch Hill Landfill located adjacent to Route 105 in Augusta.

3.10 Reporting. All trash collectors must submit a quarterly report on the types and amounts of materials recycled and total weights of Pittston trash disposed of.

3.11 Renewals. All licenses shall be renewable annually. Thirty (30) days prior to expiration date, trash collectors must submit a renewal application form (available at Town office). License/permit renewal will require an annual summary of quarterly reports of types and amounts of material recycled and disposed of during the preceding year. Late applications or renewal applications will effect the expiration date.

SECTION 4 RECYCLING COLLECTION.

4.1 Licensed trash collectors must provide collection services for materials designated as recyclable by the Town of Pittston, (and/or determined as recyclable by the collector), at least once per month to all their Pittston clients.

4.2. Trash collectors shall make their initial monthly recycling collection no later than 60 days after license approval.
4.3. The licensed collector shall be responsible for marketing and delivering materials collected for recycling to an established processor or end user of collected materials/categories. Access to recycling some materials or material categories is available at the Hatch Hill Landfill in Augusta. Other local processors/endusers may be utilized so long as reported as required.

4.4. The licensed collector shall submit quarterly reports on the types and amounts of materials recycled/composted, and include reasonable documentation. Failure to do so will be cause for revocation of license, plus a fine or penalty.

4.5. The same per bag fee for trash disposal must be charged all resident clients regardless of whether that client participates in recycling or not. Fee will be set by individual haulers but, must be structured to cover any recycling costs so that recycling services are offered at no charge. The set fee must be included in the license application.

SECTION 5. VIOLATIONS

5.1. The Pittston Code Enforcement Officer under the direction of the Select Board shall be responsible for enforcement of this ordinance.

5.2. Disposal of Solid Waste in Public Places. No person shall deposit, throw, sweep, dump or scatter any solid waste, including litter, in or upon any street, park or other public place, or into any pond, stream, or other body of water within the town, except in authorized public receptacles.

5.3. Disposal of Solid Waste on Private Property. No person shall deposit, throw, sweep, dump or scatter any solid waste, including litter, on any occupied, open or vacant private property within the town, including property used for the carrying on of a trade, business, or any other purpose, whether owned by such person or not, except that the owner or person in control of the private property may maintain private receptacles for collection and storage of all solid waste such that it will be prevented from being carried, or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.

Section 6, PENALTIES

6.1. The penalty for violation of any portion of this ordinance will be $300. for the first offense, and $450. for any and every subsequent offense. Each day of unresolved violation will be considered a separate offense.

6.2. In the event that court action is necessary and the town prevails, the violator will be responsible for the towns reasonable attorney fees and court costs as well as any fines, and that all fines recovered shall accrue to the town to be used for waste
reduction and management activities.

6.3 In the event that any provision of this ordinance is found to be void or invalid, the remaining provisions shall continue in full force effect.
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Subdivision Ordinance of the Town of Pittston, Maine

Article 1: General Provisions

Section 1-1: Purpose

The purpose of this ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Pittston, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivision within the Town of Pittston, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30, MRSA, Section 4956, subsection 3. The subdivision:

1.1 Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relationship to the floodplains; the nature of the soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; any applicable State and local regulations.

1.2 Has sufficient water available for reasonable foreseeable needs of the development.

1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be used.

1.4 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.

1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.

1.6 Will provide for adequate solid and sewage waste disposal showing the area of test pits for each established lot.

1.7 Will not cause an unreasonable burden on the ability of municipal services, including schools, maintenance of roads, solid waste disposal, etc.

1.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

1.9 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any.
1.10 The developer has adequate financial and technical capacity to meet the above stated standards.

1.11 Will not, alone or in conjunction with existing activities, affect the quality or quantity of ground water.

1.12 Will comply with all existing ordinances of the Town of Pittston.

1.13 Will submit a Road Maintenance Agreement.

Section 2. Authority & Administration

2.1 Authority: This Ordinance is adopted pursuant to and consistent, with Title 30, M.R.S.A., Section 2151-A and Title 30, M.R.S.A., Section 4956, and shall be known and cited as the “Subdivision Ordinance of the Town of Pittston”.

2.2 Administration: The Planning Board of the Town of Pittston will administer this Ordinance. The Code Enforcement Officer of the Town of Pittston will enforce all provisions of this Ordinance. The provisions of this Ordinance will apply to all of the land area of all proposed subdivisions, as defined, located in the Town of Pittston.

Section 3. Definitions

3.1 Abutter: One whose property abuts, is contiguous, or joins the applicant’s property at a border or boundary, including the property across the street, road, public way or private way.

3.2 Building: Any structure and its attachments which is supported by columns or walls with a roof for housing humans.

3.3 Code Enforcement Officer: Person or persons appointed by the Town Officers to administer and enforce Town Ordinances. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

3.4 Dwelling Unit: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.
   a. Single family dwelling will mean any building containing only one dwelling unit for habitation by not more than one family.
   b. Multi-family dwelling unit will mean a building containing two or more dwelling units, such buildings being designed for residential use and occupied by two or more families living independently of one another, with the number of families not exceeding the number of units.

3.5 100 Year Flood: The highest level of flood that, on the average, is likely to occur once
3.6 Lot: A parcel of land as defined by deeds, surveys, or similar legal documents.

3.7 Planning Board: The Planning Board of the Town of Pittston. The Planning Board is also referred to in this ordinance as “the Board.”

3.8 Road: Public and private ways such as alleys, avenues, boulevards, highways, streets, and other right-of-way, as well as areas on sub-division plans designed as right-of-way.

3.9 Subdivision: The division of a contiguous tract or parcel of land in the same ownership.
   a. Sub-division Major: Any sub-division containing more than 5 lots or dwelling units.
   b. Sub-division Minor: Any sub-division containing 3, 4 or 5 lots or dwelling units.

3.10 Variance: A granting of relief by the Town Appeals Board from a strict interpretation of the terms of an ordinance.

Section 4. Administrative Procedure

4.1 Purpose: The purpose of this section and Sections 5 through 13 is to establish an orderly equitable and expeditious procedure for reviewing proposed subdivision(s).

4.2 Agenda: In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants will request to be placed on the Board’s agenda at least one week in advance of a regularly scheduled meeting by contacting the Planning Board Secretary. Applicants who attend a meeting and who are not on the Board’s agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes.

Section 5. Pre-application Conference

5.1 Procedure.
   a. Applicant presentation and submission of draft plans.
   b. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
   c. Scheduling of on-site inspection.

5.2 Submission. The Pre-application draft plan will show, in simple sketch form, the proposed layout of roads, lots, buildings and other features in relation to existing conditions. The draft plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the draft plan be superimposed on or accompanied by a copy of the Tax Map(s) on which the land is located. The draft plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the
proposed subdivision, unless the proposed subdivision is less than 10 acres in size.

5.3 Contour Interval and On-Site Inspection: Within 31 days of submitting a draft plan and paying all applicable fees, the Board will determine and inform the applicant of the required contour interval on the Preliminary Plan and hold an on-site inspection of the property. The applicant will place “flagging” at the center line of any proposed roads, and at the approximate intersections of the road center lines and lot corners, prior to the on-site inspection.

5.4 Rights not vested. The submittal or review of the pre-application draft plan will not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., 302.

5.5 The applicant will provide the Board with a complete list with names and current addresses of all abutting property owners.

5.6 Two copies of a complete survey must be submitted for approval.
   a. For a major sub-division an engineered set of plans will be required with a set (2) Mylar Plans for the Final Plan approval.

5.7 All applications will be accompanied by an application fee found in the Subdivision Pre-Application Form, made payable to the Town of Pittston. The applicant will also be responsible for any and all professional review or services deemed necessary by the Board.

Section 6. Site Inspection & Public Hearing

6.1 In scheduling a site inspection and public hearing under this ordinance, the Board will publish notice of the site inspection and public hearing at least ten days in advance in a local newspaper, the Town’s web site and three public places in the Town of Pittston.

6.2 The Board will notify, by certified mail, the applicant and all abutters of the proposed subdivision, including owners of property on the opposite side of the road/street, at least ten days in advance of the site walk and public hearing, with the time and place of the site walk and public hearing.

6.3 The owners of property will be considered to be those to whom property taxes are assessed. Failure of any property owner to receive a notice of site walk and public hearing will not necessitate another site walk or hearing or invalidate any action by the Board.

6.4 At any public hearing, an applicant may be represented by an agent or attorney. Public hearings will not be continued to another time without a good cause.

6.5 The applicant will be heard first. To maintain orderly procedure, each side will proceed without interruption. Questions may be asked through the Chair of the Board. All persons at the hearing will abide by the order of the Boards Chair.

6.6 Within 60 days of the public hearing, the Planning Board will reach a decision on the proposed sub-division, and will inform the applicant, Select Board, Code Enforcement Officer and/or Building Inspector in writing within seven days of its decision, stating finding of fact. The Board will prepare written findings of fact, based on all evidence presented, as well as its conclusions and the reasons.
Section 7. Final Plan

7.1 Within 180 days after the Site Inspection by the Board, the applicant will submit a final plan at a scheduled meeting of the Board. Failure to do so will require resubmission of the draft plan to the Board. The Final Plan will approximate the layout shown on the draft plan, plus any recommendations made by the Board.

7.2 All applications for Final Plan approval for a Sub-division will be accompanied by any additional fee(s) payable to Town of Pittston. If an additional fee(s) is required to cover the costs of advertising and postal notification and/or professional review or services deemed necessary by the Board, the sub-divider will pay all of those fee(s) at this time.

7.3 The applicant, or the duly authorized representative, will attend the meeting of the Board to discuss the Final Plan.

7.4 Upon receipt of the Final Plan, the Board will issue a dated receipt to the applicant.

7.5 Upon notification of the approved decision of the Board, the Code Enforcement Officer will issue, with conditions prescribed by the Board, a building permit.

Section 8. General Requirements

In reviewing applications for a subdivision, the Board will consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances, the burden of proof shall be upon the applicant.

8.1 Buffer Strip: The Planning Board will require a buffer strip when the proposed subdivision is to be located adjacent to a use where separation is desirable.

8.2 Basement Drainage: If lots are being created to accommodate structures with basements, the sub-divider will show that the basement can be drained by gravity to the ground surface, or to drains or by other mechanical means.

8.3 Conformance with other Laws, Regulations: The proposed subdivision shall be in conformance with all pertinent local, state, and federal ordinances, statutes, laws and regulations and Pittston's Comprehensive Plan.

8.4 Construction Prohibited: No utility installations, no ditching, grading, or construction of roads, no grading of land or lots, and no construction of buildings will be done on any part of the subdivision until a Final Plot Plan, and 2 Mylar copies of the subdivision have been prepared, submitted, reviewed, approved, and endorsed as provided by this Ordinance, nor until an attested copy of the Final Plot Plan so approved and endorsed has been recorded by the applicant in the Registry of Deeds.

8.5 Ditches, Catch Basins: The Planning Board may require the installation of ditches, catch basins, piping systems, and other appurtenance for the control, or disposal of surface waters. Adequate drainage will be provided so as to reduce the danger of flooding and erosion.

8.6 Easements: The Planning Board may require easements for sewage, drainage, or other
utilities.

8.7 Lots and Density:
   a. The lot size, width, depth, shape and orientation and the minimum of 10' setback lines will be appropriate for the location of the subdivision and for the type of development and use contemplated, and will conform to any local Ordinances, standards, and regulations.
   b. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it will not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

8.8 Land Not Suitable for Development: The Planning Board will not approve for buildings or dwellings such portions of any proposed subdivision that are within the 100-year frequency flood plain, unless all principal structures are constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation, or on land which must be filled or drained or on land created by diverting a perennial stream. In no instance shall the Board approve any part of a subdivision located on filled or drained great ponds.

8.9 Sewage Disposal: The developer will submit evidence of soil suitability for subsurface sewage disposal prepared by a person duly licensed by the State to perform such work in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils will be shown as a reserve area for future replacement of the disposal area. The reserve area will be shown on the plan and restricted so as not to be built upon.

8.10 Roads:
   a. All roads public and private will be constructed pursuant to the Town of Pittston Road Ordinance.
   b. A Subdivision Road and Utilities Maintenance Agreement will be established with all Sub-divisions. (See attachment A)
   c. All entrances will be constructed pursuant to the Town of Pittston Entrance Ordinance.

Section 9. Waivers:

9.1 Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with any provision of this Ordinance, or where there are special circumstances of a particular plan, it may waive any provision provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other State or Local ordinance or regulations.

9.2 In granting any waiver, the Planning Board will require such conditions as will, in its judgment, secure substantially the objectives of the provisions so waived.

Section 10. Enforcement

10.1 Inspection of Required Improvements:
   a. At least five days prior to commencing each major phase of construction of
required improvements, the sub-divider or builder will: Notify the Code Enforcement Officer in writing of the time of the commencement of construction of such improvements to assure that all Town specifications and requirements will be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

b. If the CEO finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the sub-divider, the CEO will report in writing to the Select Board, Planning Board, and the sub-divider or builder the necessary improvements to be made. The CEO will take any steps necessary to preserve the Town’s rights.

c. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the CEO is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The CEO will issue any approval under this section in writing and will transmit a copy of the approval to the Planning Board. Revised plans will be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, and changes of grade by more than 1%, etc., the applicant will obtain permission to modify the plans from the Planning Board.

d. Upon completion of road construction and prior to a vote by the Select Board to submit a proposed town way to a Town Meeting, a written certification signed by a professional engineer registered in the State of Maine will be submitted to the Select Board at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements in the Town of Pittston Road Ordinance.

e. The developer, builder or home owners association will be required to maintain all improvements and provide for snow removal on roads until acceptance of the improvements by the Town of Pittston, or as specified in the Road Maintenance Agreement.

10.2 Violations and Enforcement:

a. No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Planning Board in accordance with this ordinance.

b. No person, firm, corporation or other legal entity will convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

c. No person, firm, corporation or other legal entity will convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
d. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this ordinance will be subject to a fine of not less than $5,000 for each such conveyance, offering or agreement. The Town will institute proceedings to enjoin the violation of this section, and may collect attorney’s fees and court costs if it is the prevailing party.

e. No public utility, or any utility company of any kind, will serve any lot in a subdivision for which a Final Plan has not been approved by the Planning Board.

f. Development of a subdivision without Planning Board approval will be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approval as provided in this ordinance and recorded in the Registry of Deeds.

g. No lot in a subdivision will be sold, leased or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this ordinance up to and including the entire frontage of the lot. No unit in a multi-family development will be occupied before the road upon which the unit is accessed is completed in accordance with this ordinance.

Section 11. Validity, Effective Date, Conflict of Ordinances, Filing:

11.1 Validity: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.

11.2 Effective Date: The effective date of this Ordinance, as amended is

1/31/2018

11.3 Conflict of Ordinances: This Ordinance will not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, rule, regulation, by-law, permit, or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of public health, safety, and welfare, the provisions of this Ordinance will prevail.

11.4 Filing: A certified copy of this Ordinance will be filed with the Register of Deeds, according to the requirements of State law.

Section 12. Appeals

If the Planning Board should disapprove an application for a subdivision or grant approval with conditions that are objectionable to any person, affected directly or indirectly, or when it is claimed that the provision of this Ordinance do not apply, or that the true intent and meaning of this Ordinance have been misconstrued or wrongfully interpreted, any person, affected or
indirectly, may appeal in writing from the decision of the Planning Board to the Pittston Board of Appeals. Said appeal must be made within 30 days of the Planning Board’s written decision.

Section 13. Amendments

This Ordinance may be amended by a majority vote in a special or regular Town Meeting of Pittston.

We hereby certify that the forgoing is a true copy of the Subdivision Ordinance of the Town of Pittston as enacted at the Special Town Meeting on 1/31/2018.

Given under our hand this day of

______________________________
Roger Linton, Selectperson

______________________________
Mary Jean Ambrose, Selectperson

______________________________
Gregory Lumbert, Selectperson

Attest:__________________________
Deborah Barry, Town Clerk
Town of Pittston, Maine

Date:
Town of Pittston
Ordinance Regarding Tax Acquired Property

This Ordinance is adopted under authority of 30-A M.R.S.A. Sections 3001 et seq., and shall govern the maintenance, administration, and disposition of Tax Acquired Property in the Town of Pittston.

ARTICLE 1. General

1.1 Purpose: The purpose of the Ordinance is to establish and direct the procedures for the management and disposition of real estate acquired under the real estate tax lien procedures set forth in 36 M.R.S.A. Sections 942 and 943, as amended.

1.2 Definitions. For the purposes of this Ordinance, the following definitions shall apply:

1.2.1 "Foreclosed Tax Lien" means a tax lien mortgage that has matured and automatically foreclosed pursuant to 36 M.R.S.A Sections 942 and 943.

1.2.2 "Just Value for the Current Year and Past Year Taxes not Assessed" means the amount of real estate taxes that would have been assessed to a property if not owned by the Town of Pittston on April 1st of the year in which it is sold or transferred by the Town. The intent of this definition and its application herein is to establish the amount of taxes which would have been assessed to the property if it had been subject to tax on each April 1st of the years in which the property is or has been owned by the Town as tax acquired property so when the property is sold or transferred, the Town will be reimbursed for taxes that would otherwise have accrued but for the Town’s ownership at the time of a sale or transfer.

1.2.3 "Land or Lands" mean real property interests in land as also included as part of the definition and term “Real Estate” below.

1.2.4 "Mail" means the use of the regular, first class and certified mail return receipt requested mail services through any U.S. Post Office.

1.2.5 "Manufactured Real Estate Property" means any structure, building or dwelling, constructed or fabricated elsewhere and then transported, in whole or in part, to and placed, set or installed permanently or temporarily upon land within the Town. For the purpose of the Ordinance, Manufactured Real Estate Property is also included as part of the definition and term “Real Estate” below.

1.2.6 “Minimum Bid Price” means the sum total of all outstanding taxes, interest and related charges assessed and taxed against a parcel of Real Estate, together with the sum representing the Just Value for the Current Year and Past Year Taxes not Assessed, and the sum of all lien related filing and recording fees, registry filing fees, property casualty and liability insurance costs, costs of public sale, including a set administrative fee established to cover costs of overseeing the Town’s costs in transferring the property, notice and advertisement charges, and all other costs including the Town’s personnel and/or contracted costs incurred in maintaining, securing or selling a property.

1.2.7 “Municipality” means the Town of Pittston, Maine.
1.2.8 "Municipal Officers" means the Board of Selectmen of the Town of Pittston, Maine.

1.2.9 "Former Owner" means the person or persons, entity or entities, heirs or assigns to whom property taxes were most recently assessed for a tax acquired property.

1.2.10 "Municipal Tax Release Deed" means the form of release and quitclaim deed and instrument releasing the Town's tax acquired rights, title and interests in tax acquire real property acquired under foreclosed tax liens.

1.2.11 "Real Estate" means all land or interests in land, structures, buildings, tenements and hereditaments and Manufactured Real Estate Property as may be located in or on any tax acquired property.

1.2.12 "Tax-Acquired Property" means Real Estate acquired by the Town through the real estate tax lien procedures under 36 M.R.S.A Sections 942 and 943, as amended.

1.2.13 "Tax Lien" shall mean the Town or Pittston's statutory lien rights securing the rights to collect property taxes assessed against real property under 36 M.R.S.A Section 552.

ARTICLE 2. MANAGEMENT OF TAX ACQUIRED PROPERTY

2.1 Management. Following statutory foreclosure of a tax lien mortgage on a property, management of the property shall become the sole responsibility and under the sole direction of the Municipal Officers, subject to the provisions of state law and Town Ordinances.

2.1.1 Insurance. The Municipal Officers may purchase fire loss insurance for tax-acquired properties with structures or buildings thereon with coverage amounts at least adequate to cover then outstanding taxes, liens, costs and other Town incurred expenses.

2.1.2 Occupants or Tenants. The Municipal Officers shall determine when and if any occupants or tenants of tax-acquired property shall be required to vacate a tax acquired property and are authorized to proceed with all required legal actions to enforce occupants or tenants to peacefully quit the premises.

2.1.3 Disposition of Tax Acquired Properties. The Municipal Officers, after review, shall be authorized to decide to retain the ownership for public use or dispose of any tax acquired properties in accordance with the terms in this Ordinance.

2.1.4 Retained Ownership. If the Municipal Officers determine that tax-acquired property is to be retained for Town or for other public use, the Municipal Officers may pursue an action for equitable relief to clear title to the property in accordance with the provisions of 36 M.R.S.A. Section 946, as amended.

2.1.5 Option to Allow Tenancies and Insurance during such Occupancy. The Municipal Officers may, at their discretion, allow persons occupying tax acquired properties to remain as tenants on a month to month basis. For such privilege the Municipal Officers shall charge a monthly fee to the occupants. The fee shall be set according the circumstances and shall be in an amount that the Municipal Officers deem to be in the best interest of the Town. While persons are occupying tax acquired property during the period when a monthly fee is charged, the Municipal Officers shall have in place and maintain a comprehensive general liability insurance.
policy covering the property with coverage amounts equal or exceeding the limits on liability under the Maine Tort Claims Act, codified at 14 M.R.S.A Section 8101 et seq.

2.1.6 Insurance on Vacant Tax Acquired Property. The Municipal Officers shall, in the event that a tax acquired property is or becomes vacant, secure and maintain insurance coverage for the property with a comprehensive general liability insurance policy for the property with coverage amounts equal or exceeding the limits on liability under the Maine Tort Claims Act, codified at 14 M.R.S.A Sections 8101 et seq.

ARTICLE 3. SALE OR TRANSFER OF TAX ACQUIRED PROPERTY

3.1 Sale or Transfer. In the event that the Municipal Officers determine that the best interests of the Town will be served to offer for sale or for the transfer tax-acquired property, the following procedures shall be followed:

3.1.1 Sale or Transfer for Other Public Related Uses. The Municipal officers may determine that it is in the best interests of the Town to sell or transfer interests in a tax acquired property to another entity for a public related use such as uses by a quasi-municipal entity (water, sewer districts, etc.), a land conservation organization (land trust, etc.) or a civic, charitable or educational organization. Sales and transfers under this provision shall be according to terms and conditions the Municipal Officers determine fair and reasonable and which serve the public interest, and subject also to approval by the legislative body of the Town of Pittston at a Town Meeting.

3.1.2 Public Bid Sale. The Municipal Officers shall offer properties they deem are best disposed by sale through a public sale under the following sale terms. Properties will be cataloged and summarized in a Notice of Sale which includes the tax map and lot number, street address, property description, most recent assessed value, the Minimum Bid Price and the schedule and summary of other terms of the public sale. The Notice of Sale shall be posted and advertised for ten or more days using newspapers, local posting areas and the town of Pittston web site so as to provide sufficient notice and advertising of the sale. The advertisement shall be at a minimum for two successive weekends in the Kennebec Journal, and the Lincoln County News, and the last notice published at least seven days prior to the advertised sale date. The sale shall be by a sealed bid process open to the public in which the Municipal Officers will receive within a specified time frame and certain additional terms, all bids, bids to be accompanied by a required bid deposit, and bids opened and read publicly, with the Municipal Officers thereafter authorized to accept or reject any bid.

3.1.3 Redemption by Former Owners. The Municipal Officers shall also send notice of a sale of tax acquired property to the Former Owners of each tax acquired property to be sold and all abutting property owners. The notice to former owners shall be sent by first class mail at least 45 days before bids are due in the sale. Former Owners shall have the option to repurchase their former property within the period of 30 days immediately following the Town’s issuance of the notice of sale by tendering full payment in certified funds or by bank check in the amount totaling the same sum as the Minimum Bid Price.

3.1.4 Bid Responses. The Municipal Officers shall follow and require persons submitting bid responses in the public bid sale process described herein to submit and comply with the following additional terms and conditions:

a. Bidders at the time they submit a bid must include a completed bid sheet for each parcel bid upon. Bid sheets shall include the description (by Map and Lot #) of the property being bid upon, and clearly state a firm bid
amount in United States dollars. Conditional bids are not allowed and will not be accepted.

b. Bidders at the time they submit a bid must include a separate bid deposit for each parcel bid upon in the form of a certified check, bank check or money order drawn to the Town of Pittston as payee in an amount equal to or exceeding 10% of the bid price for each parcel bid upon. Failure to submit bid deposits in the proper amount or form of payment in the bid package will cause the bid to be automatically rejected.

c. Bidders must deliver completed bid sheets and bid deposits to the Town for each property bid upon in a single and sealed plain envelope marked only on the outside of the envelope “Tax-Acquired Property Bid” and with the identification of the specific parcel(s) on the exterior of the envelope.

d. All bid responses must be hand delivered to the municipality, or mailed. If mailed, the bid response envelope shall be enclosed within a second envelope addressed to the Board of Selectmen, Town of Pittston, 38 Whitefield Rd. Pittston Maine 04345.

e. As bids are received, the Town Office will note the time and date of receipt on the bid envelope. To qualify all bids must be received on or before the deadline and date stated in the Notice of Sale.

3.1.5 Acceptance of Bids-Limitations. The Municipal Officers may in their sole discretion accept or reject any bids that they determine are or are not in the best interests of the Town but in any case may not accept any bid for an amount less than the Minimum Bid Price. Acceptance of a bid for a lesser amount, except in the case of unbuildable lots offered for sale for more than one year, must be approved by the voters at a duly called Town Meeting.

3.1.6 Right to Accept or Reject Bids. The Municipal Officers retain the right to accept or reject any and all bids as they determine to be in the best interests of the Town, and shall cause the same terms and disclaimer to be included in all Notices of Sale and in materials soliciting bids under this Ordinance. The Municipal Officers shall notify, via mail, any successful bidder. Should the Municipal Officers reject all bids in a public bid sale, they may then cause the subject property to be scheduled for sale again through a sealed bid public sale without notice to any former owner or owners.

3.1.7 Rejection of All Bids or No Bids. Should there be no successful bidder in a public bid sale, the Municipal Officers may thereafter retain or dispose of the tax acquired properties on such terms and conditions as they determine to be in the best interests of the Town, including through another sealed bid sale, open auction, listing the property through a realtor or through a closed sale.

3.1.8 Credit and Return of Bid Deposits. The Municipal Officers shall credit successful bidders bid deposits to the purchase price of the related property and after completion of a sale, return bid deposits to the unsuccessful bidders.

3.1.9 Payment and Completion of Sales. Successful bidders must complete the sale and transfer by paying the balance due and completing the transfer within 30 calendar days following date when a bid is accepted. In the event that a successful bidder fails to complete a sale within 30 days after a bid is accepted, the Town will retain the bid deposit and the Municipal Officers may thereafter offer the property to other bidders or pursue the process set forth in Section 3.1.7. In the event other bidders become successful bidders due to the default of a bidder, the other bidders must complete the sale within 30 days or similarly will forfeit their bid deposits.
3.1.10 One Time Extension. The Municipal Officers may, subject to a show of good faith and circumstances reasonably beyond the control of a bidder, extend the time limit to complete a sale for a one-time-only additional 20 days during which extended period the bidder must complete the sales.

3.1.11 Transfer Documents and Purchaser’s Release. The Municipal Officers will convey the Town’s tax acquired interests in a property under a Municipal Tax Release Deed and as conditions of such transfer, successful bidders shall agree to be responsible for the proper removal and disposition of any and all personal property at a property and for the peaceful and proper removal of any occupants remaining at a purchased tax-acquired property and in furtherance thereof, in writing, indemnify and hold harmless the Town from any and all claims arising out of the sale and transfer of the tax-acquired property.

**ARTICLE 4. WAIVER OF FORECLOSURE OF TAX LIEN.**

The Municipal Officers, upon request of the Treasurer, may without need of further approval of the legislative body of the Town of Pittston, if they determine such course to be in the best interests of the Town, proceed to file notices in the registry of deeds to waive the foreclosure of a then pending real property tax lien.

**ARTICLE 5. SEVERABILITY**

Any provision in this Ordinance or the application thereof to any person or circumstances determined by a court of law to be unenforceable or invalid shall not affect the application or validity of any other provision of this Ordinance.

**ARTICLE 6. ADOPTION**

This ordinance shall be amended by vote of the Town of Pittston’s legislative body at Town Meeting or Special Town Meeting.

Pittston Select Board

__________________________________________
Jane H. Hubert, Chair

__________________________________________
Mary Jean Ambrose, Selectperson

__________________________________________
Roger T. Linton, Selectperson

Passed at Special Town Meeting June 4, 2014
Town of Pittston Traffic Incident Ordinance

SECTION 1. Title, Authority, Purpose and Definitions

A. Title

This Ordinance shall be known and cited as the Traffic Incident Ordinance of the Town of Pittston, Maine, and will be hereinafter referenced to as the “Ordinance”.

B. Authority

This Ordinance is adopted pursuant to Title 30-A, MRSA Section 3001 (Home Rule).

C. Purposes

The purposes of this Ordinance are:

1. to promote the health, safety, and general welfare of Pittston’s residents;
2. to protect the citizens of Pittston from potential expenses incurred through emergency services provided at incident scenes; and
3. to enable the town to recover costs associated with incident scene traffic control, victim extraction and clean-up costs.

D. Definitions

Costs: Expenses incurred while controlling traffic at an incident scene, extraction of victims, control and disposal of hazardous and other materials, control and prevent fire and overall scene safety.

Driver(s): Any individual operating a vehicle involved in the traffic incident.

Fault: The individual indicated of wrongdoing as contained in a police incident report.

Individual(s): Any person, corporation, partnership, firm, organization or other legal entity.

Resident(s): An individual domiciled in the Town of Pittston as of the date that the incident occurred.
Traffic Incident: Any vehicle event to which the Town of Pittston's emergency services were dispatched or requested by the Kennebec County Sheriff's Department, Maine General Hospital, written mutual aid agreement or any state agency.

SECTION 2. Availability, Conflicts, Effective Date, Amendments, Validity, and Severability

A. Availability

A certified copy of this ordinance shall be filed with the Municipal Clerk and shall be accessible for viewing to any member of the public. A copy of the ordinance can also be obtained at a reasonable cost at the expense of the person making the request.

B. 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 applicable ordinance, regulation or statute, the more restrictive provision shall control.

C. Effective Date

The effective date of this Ordinance shall be the date of the adoption at regular or Special Town Meeting on September 18, 2003.

D. Amendments

The Ordinance may be amended only by the authority required for its original enactment.

E. Validity and Severability

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

A. Applicability

1. The provisions of this Ordinance shall govern all Traffic Incident scenes to which Pittston’s emergency services, including the Pittston Fire Department, are dispatched or requested by the Kennebec County Sheriff’s Department, Maine General Hospital, written mutual aid agreement or any state agency to: control traffic at an incident scene, extract victims, control and dispose of hazardous and other materials, control and prevent fire and overall scene safety.
2. This Ordinance shall govern all Individuals who receive the emergency services provided at the scene by the Town of Pittston except Individuals who are Residents of the Town of Pittston as of the date that service was provided.

B. Responsibility

1. Any Individual, other than a Resident of Pittston, who is deemed at Fault will be responsible for all Costs of any services as described in “Section 3A Applicability” above and will be held responsible for all incurred Costs of those services provided in connection with the Traffic Incident.
2. In the event that no Fault is determined, all Costs shall be apportioned equally among all Drivers.
3. At no time will any Resident of the Town of Pittston be held responsible or billed for any Costs incurred under the authority of this Ordinance.
4. The Individual shall have the burden of proving that they are a Resident of the Town of Pittston as of the date of the Traffic Incident.

SECTION 4. Administration and Collections

A. Town of Pittston Administering Bodies, Agents and Collections

1. It shall be the duty of the Treasurer to issue all bills relating to this Ordinance within 45 (forty-five) days from the date of the incident. Bills shall be due 30 (thirty) days from the date billed. Interest will accrue at the rate of 5 (five) percent per annum beginning on the 31st (thirty-first) day from the date billed.
2. All monies collected shall be used for training and/or purchase of safety equipment.
3. The Treasurer shall periodically report to the Municipal Officers the amounts of such bills and fees collected. This information shall be maintained as any other financial record.
4. The Fire Department shall keep a complete record of all Traffic Incident billing transactions of that department including Individuals involved in the Traffic Incident.
5. It shall be the duty of the Fire Department to inventory and submit an itemized listing, including the name and address of the Individual(s) to be billed, to the Treasurer for all Costs incurred and related to the Traffic Incident within 25 (twenty-five) days from the date that service was provided.
6. It shall be the duty of the Municipal Officers to authorize legal actions to further the purpose and provisions of this Ordinance. When the above action does not result in payment, or if the payment in full is not received within 60 (sixty) days from the date the bill was submitted to the Individual, the Municipal Officers upon notice from the Treasurer may institute legal actions and proceedings that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
Traffic Incidence Ordinance Policy

Billing to any insurance company for traffic incidents covered by this ordinance is to be $100 per hour for any hour or part thereof.

Adopted 10-15-03
Pittston Selectboard
Ordinance Restricting Vehicle Weight on Posted Roads
Town of Pittston

Section 1. Purpose and Authority
The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance") is to prevent damage to town ways and bridges in the Town of Pittston 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 traveled 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
Vehicles that are exempt from the Maine Department of Transportation's (MDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended on March 4, 1998, a copy of which is attached hereto and is hereby incorporated as part of this Ordinance, are exempt from this Ordinance. In addition, any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4-A).

Section 5. Permits
The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:
(a) no other route is reasonably available to the applicant;
(b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
(c) the applicant has tendered cash, a bond or other suitable security running to the municipality 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 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 to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges.

In determining whether to issue a permit, the municipal officers shall consider the following factors:
(a) the gross registered weight of the vehicle;
(b) the current and anticipated condition of the way or bridge;
(c) the number and frequency of vehicle trips proposed;
(d) the cost and availability of materials and equipment for repairs;
(e) the extent of use by other exempt vehicles; and
(f) such other circumstances as may, in their judgment, be relevant.
The municipal officers 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 municipality 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 municipality 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.

Adopted the ___ day of September 2006 by,

Theodore Sparrow Jr.-Chairman, Pittston Selectboard

Wanda Burns-Macomber, Pittston Selectperson

Stanley Byrne, Pittston Selectperson
Town of Pittston

Wellhead Protection Ordinance

3/01
Town of Pittston
Wellhead Protection Ordinance

Article I. General Provisions

SECTION 1. TITLE

This Ordinance shall be known and cited as the Wellhead Protection Ordinance of the Town of Pittston, Maine.

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, Title 30-A MRSA Section 3001 (Home Rule), Title 30-A MRSA Section 4311 (Growth Management), and Title 22 MRSA 2642 (Protection of Drinking Water Supplies).

SECTION 3. PURPOSE

The purpose of the Wellhead Protection Ordinance is to protect the public water supply in East Pittston from land uses which pose a threat to the quality and/or quantity of the groundwater being extracted from the wells which serve the public water system.

SECTION 4. EFFECTIVE DATE

This ordinance shall take effect upon its enactment by the Town. Enacted:

MARCH 17, 2001.

SECTION 5. APPLICABILITY

This ordinance applies to all land uses located or proposed within the area delineated as Wellhead Protection Zones on the official Town of Pittston Wellhead Protection Area Map titled 'Figure 5. Wellhead Protection Area Zones' by Jacques Whitford Company, Inc., February, 1999, and included as Appendix I of this ordinance.

SECTION 6. RELATIONSHIP WITH OTHER ORDINANCES

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

SECTION 7. VALIDITY AND SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.
SECTION 8. AMENDMENTS

A. Initiation and Procedure

A proposal for an amendment to this ordinance may be initiated by:
(1) The Planning Board, by favorable majority vote of the Planning Board;
(2) The Selectmen, through a request to the Planning Board and subsequent favorable
majority vote of the Planning Board;
(3) An individual, through a request to the Planning Board and subsequent favorable
majority vote of the Planning Board, or, lacking that, through the petition process for
placing articles on the warrant for town meeting.

B. Enactment

A proposed amendment to this ordinance must be approved by a majority vote of the
Town Meeting.

Article II. Administration, Enforcement, Appeals, and Penalties

SECTION 1. ADMINISTERING BODIES AND AGENTS

A. Code Enforcement Officer

The Code Enforcement Officer of the Town of Pittston shall administer and enforce this
ordinance. In addition, the Code Enforcement Officer shall refer permit applications
requiring Planning Board review to the Planning Board.

B. Planning Board

The Planning Board of the Town of Pittston shall be responsible for reviewing and
acting upon permit applications under this ordinance.

C. Board of Appeals

The Board of Appeals of the Town of Pittston shall hear and act on appeals in
accordance with the provisions of this ordinance and state law

SECTION 2. PERMITS REQUIRED

After the effective date of this ordinance, no person shall engage in or expand any
structure or land use activity which requires a permit without first obtaining a permit for such
structure or activity, or expansion thereof. The Wellhead Protection Area Land Use Table
(Article III, Section 2) lists land uses which require a permit.

SECTION 3. PERMIT APPLICATION

Applicants for a permit under this ordinance shall submit an application in writing to the
Planning Board. 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.
SECTION 4.  PROCEDURE FOR ADMINISTERING PERMITS

Within forty-five (45) 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 specified additional material is needed to make the application complete.

Once a complete application has been received, the Planning Board shall approve or deny the application, in writing, within forty-five (45) days. However, if the Planning Board has a waiting list of applications, such approval or denial shall occur within forty-five (45) days of the first available opening on the Planning Board's agenda or, within forty-five (45) days of the public hearing, if one is held.

Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this ordinance. Permits may be made subject to reasonable conditions to insure conformity with the purposes and provisions of this ordinance, and the permit applicant/holder shall comply with such conditions. If a permit is either denied or approved with conditions, the reasons shall be stated in writing.

No approval shall be granted for an application involving a use or structure, if it would be located in an unapproved subdivision, or would violate any other local ordinance or regulation, or any State law for which the Town has responsibility.

The burden of proof that a proposed land use activity is in conformity with the purposes and provisions of this ordinance lies with the applicant.

SECTION 5.  APPLICATION FEE

An application fee of $ 5.00 payable to the Town Clerk must be submitted with a permit application.

SECTION 6.  INDEPENDENT REVIEW AND ADVICE

A.  Professional Services
Applicants shall be responsible for the cost of professional services rendered to the Planning Board in reviewing the application. 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.

B.  Additional Studies
The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to demonstrate and ensure that the requirements of the ordinance are met. The costs of such studies shall be borne by the applicant.
SECTION 7. PERFORMANCE GUARANTEES

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.

SECTION 8. EXPIRATION OF PERMIT

Following the issuance of a permit, if no substantial start is made in construction, or in use of the property for which such permit has been issued, within one year of the date of the permit, the permit shall lapse and become void. However, the permit may be renewed within six months of the date of expiration if no material change in the proposed use or requirements has occurred with no additional fee. Thereafter, any application shall be considered and handled as a new application.

SECTION 9. INSTALLATION OF PUBLIC UTILITY SERVICE

No public utility, water district, sanitary district or any other utility company may install, or connect services to, any new use or structure requiring a permit under this ordinance, unless written authorization attesting to the validity and currency of all permits required under this ordinance has been issued by the appropriate Town official(s). Following installation of service, the company or district shall forward a copy of the written authorization to the Town official(s) and indicate that installation has been completed.

SECTION 10. ENFORCEMENT AND PENALTIES

A. Inspections and Complaints
The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance.

B. Violations
It shall be the duty of the Town of Pittston Code Enforcement Officer (CEO) to enforce this ordinance, in accordance with the provisions of this ordinance and state laws. If the CEO finds that any provision is being violated, he/she shall notify in writing the person responsible for such violation. The notice shall include the nature of the violation and the action necessary to correct the situation. A copy of the notice shall be provided to the Planning Board, Water District, and Selectmen.
FIGURE 5: WELLHEAD PROTECTION AREA ZONES
C. **Recordkeeping**  
The CEO shall keep a complete record of all transactions relating to the administration and enforcement of this ordinance, and shall maintain a permanent record of those transactions at the town office. Copies of all records and transactions shall be provided to the Planning Board and Water District.

D. **Legal Action**  
When a person does not correct a violation after receiving notice to do so, the CEO shall notify the Selectmen and the Water District. The Selectmen, or their authorized agent, may institute all legal and equitable actions to correct the violation and recover fines and costs.

E. **Penalties**  
Any person who continues to violate a provision of this ordinance or condition of a permit after receiving written notice to correct the situation shall be subject to penalties as outlined at 30-A MRSA Section 4452. Each day of violation constitutes a separate violation.

**SECTION 11. APPEALS**

An appeal of a decision of the CEO and/or the Planning Board shall be taken to the Town of Pittston Board of Appeals within thirty (30) days of the decision. An appeal of a decision of the Board of Appeals may be taken to Superior Court in accordance with Maine Law.

**Article III. Land Use Requirements**

**SECTION 1. ESTABLISHMENT OF ZONES**

The Wellhead Protection Area consists of two (2) zones which are listed below and are shown on the official Town of Pittston Wellhead Protection Area Map (Appendix I). The source for the Wellhead Protection Area delineation is the *East Pittston Wellhead Protection Review, prepared for Department of Environmental Protection, Augusta, Maine, by Jacques Whitford Company, Inc., Vermont Office, February 25, 1999.*

A. **Zone 1: Immediate Recharge Area**

Zone 1 includes the area between the wellhead and a 300' x 400' ellipsoid as shown on the Wellhead Protection Area Map.

B. **Zone 2: Primary Recharge Area**

Zone 2 includes the area within a 800' x 1,500' ellipsoid as shown on the Wellhead Protection Area Map.
SECTION 2. LAND USES

KEY:

Y = permitted
N = not permitted
PB = permitted subject to Planning Board Review and use of Best Management Practices

Wellhead Protection Area Land Use Table

<table>
<thead>
<tr>
<th>Uses</th>
<th>Zone 1</th>
<th>Zone 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Commercial agriculture, horticulture, silviculture(^1)</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>2. Construction or demolition</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>3. Use, storage, or manufacture of hazardous materials or waste</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>4. Intensive open space uses</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>5. Overnight storage or parking, maintenance, and refueling of</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>commercial vehicles and equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Use or storage of petroleum products over 500 gallons per parcel of land</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>7. Sand and gravel mining, other mining</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>8. New subsurface wastewater disposal or sewage systems(^2)</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>9. Replacement or expansion of subsurface wastewater disposal</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>or sewage systems</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Discharge of commercial or industrial wastewater or washwater to a septic system(^3)</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>11. Discharge and impoundment of wastewater and stormwater</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>12. Storage, handling, and processing of solid waste, including</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>sludge and ash utilization</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Disposal of solid waste, sludge, and ash</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>14. Bulk storage of leachable material, including but not limited to</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>concrete, asphalt, tar, coal, and salt</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15. Timber harvesting</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>16. Utility corridors</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>17. Wells, abandoned, existing but not in use, or new</td>
<td>N</td>
<td>PB</td>
</tr>
<tr>
<td>18. Essential operations of the Water District or other official</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>safety or utility entity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19. Uses similar to uses requiring Planning Board review</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

\(^1\) Non-commercial agriculture, horticulture, and silviculture are allowed subject to Best Management Practices.

\(^2\) Includes 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.
SECTION 3. LOT SPECIFICATIONS

A. Maximum Lot Coverage

The percentage of the lot that lies in the Wellhead Protection Area which can be covered by impermeable surfaces, including parking areas, shall be limited as presented in the following table.

<table>
<thead>
<tr>
<th>Zone</th>
<th>Maximum Lot Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>30%</td>
</tr>
<tr>
<td>2</td>
<td>50%</td>
</tr>
</tbody>
</table>

SECTION 4. APPLICATION REQUIREMENTS

The Planning Board shall 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.

A. All Applications

All applications shall contain the following information.

1. Written information:
   - Name of development; municipality; tax map and lot numbers
   - Owner and applicant's names and addresses; name and addresses of person who prepared the application and/or plan
   - Name and address to which correspondence should be sent
   - 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.
   - Copy of recorded deed for property; verification of ownership or legal interest
   - Interest the applicant has in any property abutting the parcel to be developed
   - State whether the development covers the entire or contiguous holdings of applicant
   - On-site sewage disposal report from licensed site evaluator or information from local sewer district indicating capacity
   - Special reports:
     - soils
     - engineering design
     - erosion and sediment control plan
     - stormwater management plan
     - long term maintenance provisions
     - traffic and parking assessment
   - Hydrogeological assessment
   - Necessary state and/or federal permits and date of application and approval (please list)
   - List of construction items, cost estimates
- Construction schedules
- Proposed method of performance guarantee
- Restrictions, conditions, covenants and easements

2. Plan information:
- Existing and proposed streets
- Outline of development and remaining portion of property
- Scale; written and graphic; date; north point
- Perimeter survey (bearings and distances; surveyor’s seal; number of acres; existing and proposed monuments; abutters names)
- Lot lines, numbers and sizes; building setback lines
- Existing water bodies, watercourses, wetlands, and other significant natural features
- Public and private rights-of-way and easements
- Zoning boundaries
- Location of test pits keyed to site evaluator’s or soil scientist’s report
- Base flood elevation, if applicable
- Written request for waivers or variances
- Contours of 5 feet or other interval; refer to USGS bench if within 500 feet
- Location and design of culverts, drains and other storm water control structures, existing and proposed
- Location and design of proposed sewers and water lines
- Typical engineering plan, profiles, and cross-sections
- Medium intensity or high intensity soils maps
- Location of parking, open space, conservation and/or recreation areas
- Landscaping plan and details
- Surface drainage plan
- Soil erosion and sedimentation control features
- Locations, dimensions and profiles of underground utilities
- Profile and typical cross-sections of streets and other public works
- Location/identification of buffers, lots or areas to be restricted or dedicated for common or public use

B. Additional Application Requirements for Planning Board Review for Certain Activities Within the Wellhead Protection Area

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.

1. Construction/Demolition
   - Provisions for solid waste handling, storage and disposal
   - Provisions for sanitary facility
   - An engineering report which provides:
     - information concerning storage and disposal of waste materials
provisions for fuel storage and refueling
provisions for storage of any liquid chemicals used in the construction process
provisions for storage of any bulk chemicals used in the construction process

2. Stormwater Management
Engineering calculations and plans which provide:
- Design and capacity of subsurface collection facilities
- Design of dry wells, storage, retention or detention facilities and other surface water impoundments
- Stormwater system outlets
- Delineation of post development drainage areas
- Plans for ice control, use of road salt, and snow removal

3. Other Impoundments
Engineering calculations and plans which provide:
- Design and capacity of subsurface collection facilities
- Design of dry wells, storage, retention or detention facilities and other surface water impoundments
- Stormwater system outlets
- Delineation of post development drainage areas
- Plans for ice control, use of road salt, and snow removal
- Description of source of water, use of water and final water quality (water quality parameters to be specified by applicant)
- Amount of consumptive water use

4. Hazardous Materials, Petroleum Products, and Other Chemicals:
   Handling and Storage
- Type of volume of chemical compounds handled and/or stored.
- Site plan showing all storage, handling and use areas for raw materials and wastes
- For outside areas, details to contain spills including:
  - 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
  - provisions to collect chemicals should they enter the drainage system
  - provisions to segregate underground systems to insure that there are no cross connections
  - statement of emergency measures which can be implemented for surface drainage systems
- For inside areas, details to contain spills including the:
  - design of dikes around rooms
  - the location of floor drains and floor drain outlets
  - the location of separators, holding tanks and/or drain outlets
  - the specific location and design of underground storage structures
  - the location and design of piping systems for wash waters and other wastes liquids to insure that inappropriate wastes are discharged and that wastes are discharged to appropriate sewers or treatment systems
■ A spill prevention and control and countermeasure (SPCC) plan detailing:
  - materials and equipment to be available
  - a training plan and schedule
  - a list of contacts (EPA/DEP/local fire officials) with phone numbers
  - an inspection schedule

■ A report by an industrial engineer or other competent professional detailing:
  - steps which have been taken to reduce the use of hazardous materials
  - actions which have been taken to control the amount of wastes generated
  - any reports to provide information on the design theory or methodology for the above features

5. Subsurface Wastewater Disposal, Sewage Disposal and Subsurface Injection
   ■ Provisions for sewage disposal including:
     - soil evaluator's report and septic system design
     - For sites/uses producing more than 1,000 gallons of sewage, a hydrogeologic analysis of nitrate concentrations at the property line
     - Evaluation of public/private sewer system capacity and integrity of sewer lines serving the development by a Registered Engineer or the sewer system superintendent
   ■ Provisions and designs for all floor drains, grease traps, and holding tanks

6. Installation of Monitoring Wells
   ■ Location and construction specifications
   ■ Intended purpose
   ■ Sampling schedule
   ■ Provisions for informing appropriate Town body of sampling results

SECTION 5. CONTROL OF EXISTING THREATS

A. Inspection

The Code Enforcement Officer shall have the right to enter and inspect all premises which carry on the uses listed in the Wellhead Protection Area Land Use Table (Article III, Section 2) and/or described in the Best Management Practices Section of this ordinance (Article III, Section 6). Such inspections shall be conducted at reasonable times with the permission of the landowner and be based on a reasonable belief that a threat or potential threat to the water supply exists or be part of a comprehensive schedule of inspections. The Code Enforcement Officer may be accompanied by a representative of the Water District including a consultant employed by it.

B. Monitoring

When the Planning Board finds that a reasonable threat to the public water supply exists and that groundwater monitoring in the area will serve to protect the public water supply
from existing or potential threats as listed in the Wellhead Protection Area Land Use Table (Article III, Section 2), the applicant shall, as a condition of permit approval, either: (1) grant the municipality and the Water District the right to install groundwater monitoring wells and maintain the right to sample such wells on the applicant's property; or (2) install monitoring wells and implement a groundwater monitoring program approved by the Planning Board.

Further, the Code Enforcement Officer or the Water District representative shall have the right, upon reasonable advance notice, to conduct such testing as the municipality may deem appropriate to determine that Best Management Practices and groundwater pollution control devices are in good condition and are working properly. Such testing shall be at the municipality's or Water District's expense. If such testing indicates that the groundwater has been contaminated above the State Primary or Secondary Drinking Water Standards, then further testing shall be at the expense of the existing owner of the land in question, and the owner shall reimburse the municipality and/or department for expenses incurred in the initial well installation and testing.

C. Best Management Practices

Uses listed in the Wellhead Protection Area Land Use Table (Article III, Section 2) shall implement Best Management Practices required in Article III, Section 6 of this ordinance.

SECTION 6. BEST MANAGEMENT PRACTICES FOR WELLHEAD PROTECTION AREA

A. General Provisions

All development located within the Wellhead Protection Area shall comply with Best Management Practices to protect the quality and quantity of the public water supply. Best Management Practices, as applied in the State of Maine, are management practices which will mitigate the impacts of the activity on water quality. In some instances, there may be more than one management practice which would accomplish the same result. In other instances, depending on the site location and on-site conditions, more than one management practice may be needed to fully mitigate the problem. Therefore, discretion is needed in determining which management practices to apply. The Planning Board shall require all development located within the Wellhead Protection Area to comply with the Best Management Practices contained in this Section and may refer to additional applicable Best Management Practices which have been published by or in conjunction with the Maine Department of Environmental Protection or other technical experts.

B. Agriculture/Open Space/Utility Corridors

1. Soil tests shall be used to determine proper amount of nutrients and limestone applied (pH adjustment).

2. Nutrients and fertilizers shall be applied only at levels required.

3. A slow release form or organic fertilizer shall be used, where possible.

4. Nutrients and chemicals shall not be applied to very shallow soils or exposed bedrock.
5. Limit applications of nutrients and fertilizers to the active growing season.

6. All federal and state laws regulating pesticides and chemicals shall be followed.

7. Pesticides and chemicals shall be applied in accordance with label instructions or under the direction of a certified applicator.

8. Nutrients, chemicals, and fertilizers, including manure, shall be stored in properly located and constructed facilities.

9. Secure, safe storage shall be provided for used pesticide containers and disposal of containers shall be in accordance with federal and state law.

C. Chemicals, Hazardous Materials, Petroleum Products and Waste Handling on Construction Sites

1. The collection and disposal of petroleum products, chemicals and wastes used in construction shall conform to the following.
   (a) Collect and store in closed, clearly marked water tight containers.
   (b) Containers shall be removed regularly for disposal to prevent spills and leaks which can occur due to corrosion of containers. A schedule for removal shall be contained in the application and in any construction specifications for the project.

2. Landscaping chemicals such as fertilizers, herbicides and pesticides shall be applied following appropriate Best Management Practices developed by the Maine Department of Agriculture in conjunction with the Maine Department of Environmental Protection.

D. Chemical, Hazardous Material, and Petroleum Handling and Storage

1. Nonhazardous chemicals shall be substituted for hazardous varieties whenever possible.

2. Provisions shall be made to clean up all spills immediately with an absorbent material or other methods and to dispose of the materials properly.

3. Hazardous materials shall be stored in secure, corrosion resistant containers.

4. Bulk storage shall be in above-ground, corrosion resistant tanks.
   (a) A diked area shall be provided around tanks to contain spills. The volume of diked area shall equal the volume of product stored.
   (b) A roof shall be provided over containment areas to prevent collection of rain water.
   (c) Drains shall not be installed in containment areas.

5. All floors shall be concrete or an impermeable, hardened material.
6. Non-bulk storage of chemicals shall be indoors. Such storage areas shall comply with the following:
   (a) floor drains shall not be used
   (b) storage and handling areas shall have waterproof dikes around perimeter so as to contain spills.

7. Tanks shall be equipped with automatic shutoffs or high level alarms.

8. Spill and leak detection programs shall be maintained and reviewed annually and updated as necessary.

9. Oil and water separators shall not be used to remove dissolved compounds or oil and greases which had been subjected to detergents.

10. Concrete or other impermeable pads shall be provided under transfer and handling areas.

11. Exterior transfer and handling areas shall be graded and sloped so as to prevent runoff from other areas from entering the handling area.

12. Procedures shall be established to catch and store chemicals spilled at loading and other transfer areas.

13. The facility and equipment shall be designed to:
   (a) prevent tank overflows; and
   (b) prevent line breakage due to collision.

14. Provisions shall be made to have:
   (a) emergency diking materials available;
   (b) emergency spill cleanup materials available.

15. Residential storage tanks for home heating fuel shall be located in cellars or on a concrete slab above the ground if outside and provisions shall be made to periodically inspect and test tanks and lines for leaks.

E. Commercial Maintenance Operations

1. An inventory of chemicals used and stored and a plan detailing the reuse, recycling, or proper disposal of waste chemicals shall be maintained and updated as needed. The plan shall include provisions for implementing the plan.

2. Buildings, rooms and areas where chemical potential pollutants are used, handled or stored shall be designed to contain spills or leaks.
   (a) Specifically, floor drains shall not be used except as required by fire regulations.
   (b) A waterproof dike shall be placed around areas to contain accidental spills. The dike shall have an equivalent volume to the amount of material stored or used in the room.
3. Spill/leakage prevention and detection programs shall be maintained and updated.
   (a) Plans shall insure the regular collection and transport of chemicals;
   (b) Plans shall provide for inspection of containers and storage areas on a regular basis.

4. A spill clean-up plan shall be maintained and reviewed annually and updated as needed. The plan shall:
   (a) Insure adequate materials and equipment are available;
   (b) Insure that personnel are trained;
   (c) Insure that the local fire department is knowledgeable of clean-up procedures.

5. Wash waters and other dilute wastes shall be adequately treated consistent with State law and the current pretreatment ordinances.
   (a) Wastes shall be discharged to sewer systems or treatment plants where possible;
   (b) Grease traps and oil separators shall be installed where necessary and shall be maintained on a regular basis.

F. Sand and Gravel Mining

1. Excavation shall be limited to 5 feet above the seasonal high water table.

2. If water supply wells are present within 500 feet of the proposed excavation, ground water level monitoring wells shall be installed and monitored.

3. Haul roads shall be watered to control dust. Salting and oiling of roads is prohibited.

4. Petroleum Storage
   (a) Petroleum products shall not be stored in the pit.
   (b) A spill prevention plan shall be maintained and updated.

5. A reclamation plan shall be provided, maintained and implemented.

G. Septic/Subsurface Wastewater/Sewage Disposal

1. Sewer/septic systems shall be designed by competent professionals using sound engineering practices. On-site sewage disposal shall be according to the State of Maine Subsurface Wastewater Disposal Rules.

2. Construction of sewers and septic systems shall be carefully inspected to assure proper installation.

3. Septic systems and related piping shall be tested for leakage and certified by the LPI that they are water tight prior to use. Sewer systems shall be tested for leakage, according to State standards or municipal ordinance/district regulations.
4. Provisions shall be made to maintain sewer and septic systems in good working order.

5. Sewers and drainage systems shall be designed to assure that stormwater does not enter sanitary sewers.

6. For cluster systems, 1,000 gallon septic tank capacity shall be provided for each 300 gallons of flow. Design flows for leachfields shall be less than 2,500 gallons per day.

7. Chemicals, hazardous materials, floor drains and stormwater drains (i.e. roof drains) shall not be discharged to septic systems.

H. Storm Water Runoff/Snow and Ice Control

1. Drainage systems, including detention basins, drainage ways, and storm sewer systems, shall be maintained in good working order.

2. Chemicals and wastes shall be stored in such a manner to prevent rainfall from contacting them.

I. Wells, Abandoned

1. Abandoned wells must be filled with inert, compact, natural soil material or as stipulated by the State of Maine Well Drillers and Pump Installers Rules, 144A CMR 232.

2. Wells must be abandoned according to the State of Maine Well Drillers and Pump Installers Rules, 144A CMR 232, and all piping must be removed.

J. Wells, Existing and New

1. Wells must be constructed and secured so that contamination cannot enter the groundwater via either the inside or the outside of the well.

2. Wells must be constructed according to the State of Maine Well Drillers and Pump Installers Rules, 144A CMR 232.
Article IV. Definitions

Agriculture
The cultivation of soil, producing or raising crops, including gardening, horticulture, and silviculture, as a commercial operation. The term shall also include greenhouses, orchards, nurseries, and versions thereof, but shall not include home gardens.

Aquifer
A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation.

Best Management Practice
Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity.

Board
Refers to the Town of Pittston Planning Board.

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.

Code Enforcement Officer
A person appointed by the municipal officers to administer and enforce this Ordinance.

Commercial
Any activity carried out for pecuniary gain

Conforming
A building, structure, activity or land use which complies with the provisions of this ordinance.

Construction
Includes building, erecting, moving or any physical operations on the premises which are required for construction. Excavating, filling, paving and the like shall be considered part of construction.

Construction and Commercial Equipment & 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)

Excavation (see construction)

Fill (see construction)

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 which 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 or motor oil are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

Ground water
The water contained within the interconnected pores, cracks or fractures located below the water table of a confined or unconfined aquifer.

Hazardous Material
Any gaseous, liquid or solid materials, or substances designated as hazardous by the Environmental Protection Agency and/or the Maine Department of Environmental Protection.

Hazardous Waste
Any substance identified under chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto, and any radioactive waste material which means any solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiations.

Horticulture (see agriculture)

Industrial
Any activity which includes the assembling, fabrication, servicing, manufacturing, storage, packaging, processing or shipping of goods, or the extraction of minerals.
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.

Intensive Open Space Uses
Uses of open space which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity.

Landfill
An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground.

Mining or Mineral Extraction
The removal of geologic materials such as soil, topsoil, loam, sand, gravel, clay, metallic ores, rock, peat, or other like material from its natural location and transportation of the product removed away from the extraction site.

Nursery (see agriculture)

Open Space
Land that is free of buildings and other permanent structures.

Park
Land area set aside for public recreation, conservation, wildlife, or other similar purpose.

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.

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 or Sand/Salt Piles (covered)
Storage of salt or sand/salt mix intended for municipal, commercial or other use beneath a roof or other structure capable of preventing precipitation from reaching the salt or sand/salt.
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 (see agriculture)

Sludge
Residual material produced by water or sewer treatment processes, industrial processes, or domestic septic tanks.

Sludge Utilization
The spreading of sludge on the ground or other use of sludge which might expose surface or groundwater to the sludge.

Snow Dump
A location to which snow is transported and dumped by commercial, municipal, or State snow-plowing 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.

Subdivision
A subdivision shall mean the division of a tract or parcel of land as defined in Title 30A, M.S.R.A., section 4401. The term subdivision shall also include such developments as mobile home parks, multiple-family dwelling(s), shopping centers, condominiums, and industrial parks where there are three or more units involved, and additional divisions and developments defined as subdivisions in the Pittston Land Use Ordinance.

Subsurface Injection (see subsurface wastewater disposal)
Subsurface Wastewater Disposal System
A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA section 413, Subsection 1-A, or any public sewer, sewerage system, or wastewater treatment plant.

Timber Harvesting
The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery.

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.

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 Protection Area
A zone, consisting of 2 districts, delineated according to Article III, Section 1 of this Ordinance.

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.

Zone of Contribution
The area from which groundwater flows to a pumping well.
Eastern Mapping Services
115 North Road
Newburgh, ME 04444
Tel. (207) 234-2777
Updated April 1, 2002
TOWN OF PITTSTON

WIRELESS TELECOMMUNICATION FACILITY SITING ORDINANCE

Section 1. General

A. Title: This Ordinance shall be known as the Town of Pittston Wireless Telecommunications Facility Siting Ordinance and will be referred to as "this Ordinance.

B. Authority: This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A MRSA Section 3001, and the provisions of the Planning and Land Use Regulation Act, Title 30-A MRSA Section 4312 et seq.

C. Purpose: The purposes of the Ordinance are:

1. Implement a municipal policy concerning the provision of wireless telecommunication services, and the siting of their facilities.
2. Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunication facilities.
3. Ensure that all telecommunication carriers providing facilities or services within the Town comply with this Ordinance.
4. Ensure that the Town can continue to fairly and responsibly protect the public health, safety and welfare.
5. Encourage the colocation of wireless telecommunication facilities, thus helping to minimize adverse visual impacts on the community.
6. Further the goals and policies of the comprehensive plan.
7. Protect the scenic and visual character of the community.

D. Applicability: The provisions of this Ordinance apply to all construction and expansion of wireless telecommunication facilities. The following are exempt from the provisions of this Ordinance:

1. Temporary wireless telecommunication facilities for emergency communications by public officials.
3. Parabolic antennas less than 7 feet in diameter, that are an accessory use of the property.
4. Maintenance, repair or reconstruciton of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
5. Temporary wireless telecommunication facility, in operation for a maximum period of 180 days.
6. An antenna that is an accessory use to a residential dwelling unit.

E. Effective Date: The effective date of this Ordinance shall be the date of the adoption by the Town of Pittston: March 19, 2005.

F. Validity and Severability: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

G. Availability: A certified copy of this Ordinance shall be filed with the Town Clerk and shall be assessable to any member of the public. Copies shall be made available to the public at reasonable cost to be charged to the person making the request. Notice of availability of this Ordinance shall be posted in the Town Office.

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

I. Application Fee: All applications shall be accompanied by the following non-refundable fee made payable to the Town of Pittston:

1. Code Enforcement Officer Application Fee is $100.00
2. Planning Board Application Fee is $500.00

J. Amendments: Amendment to this Ordinance may be initiated by a majority vote by the Board of Selectmen, Planning Board, or by written petition by a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election. This Ordinance may be amended by a majority vote of the legally constituted municipal governing body at a regular or special Town Meeting or by referendum ballot.

K. Appeals: An aggrieved party may appeal the final decision of the Code Enforcement Officer or the Planning Board under this Ordinance to Superior Court, within 30 days of the date the Code Enforcement Officer or the Planning Board issues a written order of its decision.

L. Administration and Enforcement: The Code Enforcement Officer shall enforce this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance has been violated, the Code Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The Code Enforcement Officer shall order correction of the violation and may take any other legal action to ensure compliance.
with the Ordinance. The Selectmen may permit the Code Enforcement Officer to enter into administrative consent agreements for the purpose of eliminating violations of the Ordinance and recovering fines without court action. Such agreements shall be approved by the Selectmen and shall not allow a violation to continue unless: there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

M. Penalties: Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A MRSA Section 4452. Each day such violation continues after notification by the Code Enforcement Officer shall constitute a separate offense.

Section 2. Review and Approval Authority

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

1. Approval by the Code Enforcement Officer is required for any expansion of an existing wireless telecommunication facility that increases the height of the facility by no more than 20 feet; accessory use of an existing wireless telecommunication facility; or colocation on an existing wireless telecommunication facility.

2. Approval of the Planning Board is required for construction of a new wireless telecommunication facility; and any expansion of an existing wireless telecommunication facility that increases the height of the facility by more than 20 feet.

B. The Code Enforcement Officer or the Planning Board shall review the application for wireless telecommunication facilities, and make written findings on whether the proposed facility complies with this Ordinance.

Section 3. Approval Process

A. Pre-Application Meeting: All persons seeking approval of the Planning Board under this Ordinance shall meet with the Planning Board prior to submitting a formal application. At this meeting, the Planning Board, shall explain to the applicant the Ordinance provisions, as well as submissions that will be required under this Ordinance.

B. Applications: All persons seeking a Code Enforcement or Planning Board Approval shall submit an application on the forms provided by the Town of Pittston. The applicant shall have the burden of proof to show that the application meets all the provisions of this Ordinance.
C. Planning Board Approval Standards:

1. An application for approval by the Planning Board shall meet all of the following standards.

   a. The wireless telecommunication facility shall not be located within the following shoreland districts: Resource Protection and Stream Protection as designated in the Town of Pittston Shoreland Zoning Ordinance.

   b. A wireless telecommunication facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three additional wireless telecommunication facilities or providers subject to the height limitation posed by the tower design.

   c. A new or expanded wireless telecommunication facility must be setback 105% of its height from all property lines. The setback may be satisfied by including the areas outside of the property boundary if secured by an easement.

   d. A new wireless telecommunication facility and related equipment must be screened with plants from view by abutting properties to the maximum practicable extent.

   e. A new wireless telecommunication facility must be fenced to discourage trespass.

   f. A new wireless telecommunication facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. Security lighting may be installed as long as it is shielded to retain light within the boundaries of the site to the maximum extent possible.

   g. A new wireless telecommunication facility must be constructed with material that blend with the surrounding natural or built environment to the maximum extent possible.

   h. A new wireless telecommunication facility must comply with the current Electronic Industries Association Telecommunication Industries Association (EIA/TIA) 222 Revision Standard entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures”.

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

   j. A new or expanded tower shall not be constructed to a height that would require lighting and marking as per FCC and FAA Regulations.

2. The Planning Board may establish conditions for approval as necessary in order to ensure that the application conforms to the above listed review standards.

D. Amendment to an Approved Application: Any changes to an approved application must be approved by the Code Enforcement Officer or the Planning Board in accordance with the application procedure established in this Ordinance.
I hereby certify that the forgoing is a true copy of the Town of Pittston Wireless Telecommunication Facility Siting Ordinance relating to the licensing and regulations of wireless communication facilities as enacted at the Annual Pittston Town Meeting on March 19, 2005.

Attest: ____________________________________________
Ann Chadwick, Town Clerk
Town of Pittston, Maine

Date: _________________________________

SEAL/STAMP