1992

Code of Ordinances [for Long Island, Maine]

Long Island (Me.). Town Departmental Leadership

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec 1-1.  How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the “Code of Ordinances, Town of Long Island, Maine,” and may be so cited. Such Code may also be cited as the “Long Island Code” or “Code.” (Code 1969, § 101.1)

**State law reference** Codification authority, 30 M.R.S.A. § 2154.


It is the legislative intent of the Board of Selectmen, in adopting the Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the town. In the construction of this Code and any amendment thereto, the following rules shall be observed, unless the context clearly indicates otherwise:

**City.** The word “city” shall mean the Town of Long Island.*

**City council.** The term “City council” or “council” shall mean the Board of Selectmen, Town of Long Island, Maine.*

**Code.** The term “this code” or “Code” shall mean the Code of Ordinances, Town of Long Island, as designated in section 1-1.

**County.** The term “the county” or “this county” shall mean the County of Cumberland in the State of Maine.

**Gender.** A word importing gender shall extend and be applied to the other gender and to firms, partnerships and corporations as well.

**Number.** A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

**Person.** The word “person” means any natural individual, firm, trust, partnership, association, or corporation in his or her or its own capacity or as administrator, conservator, executor, trustee, receiver, or other representatives appointed by the court. Whenever the word “person” is used in any section of this Code prescribing a penalty or fine as applied to partnerships or associations, the word shall include the partners or
members thereof, and such word as applied to corporations shall include the officers, agents or employees thereof who are responsible for any violation of such section.

Shall. The word “shall” is mandatory.

State. The term “the state” or “this state” shall be construed to mean the State of Maine.

Tense. Words used in the present or past tense include the future as well as the present and past.

Town. The word “town” shall mean the “Town of Long Island.”

Written, in writing. The words “written” or “in writing” may include printing. (Code 1968, §§ 101.8, 101.13)

*This term has been retained in case it has been inadvertently left in any Codes originally adopted by the town from the City of Portland codes temporarily adopted at the time of incorporation.

Sec. 1-3. Severability.

Should any provision or section of this Code or any rule or regulation adopted pursuant to this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the selectmen that this Code, and rules and regulations adopted pursuant hereto, shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance. (Code 1968, § 101.14)

Sec. 1-4. Official copy kept by town clerk.

The town clerk shall keep one (1) copy of this Code in a book or binder in loose-leaf form, or in such other form as she may consider expedient, so that all amendments thereto and all ordinances hereafter passed may be inserted in their appropriate place and all deletions may be extracted therefrom for the purpose of maintaining such copy in such condition that they will show all effective ordinances at any time in such manner that ready reference may be had thereto. In determining the form, chapter or section in which any ordinance hereafter passed shall be inserted in such volumes, and in determining what shall be taken out, if any doubt arises, the town clerk shall be guided by the advice of the town counsel. (Code 1968, § 101.3)

Sec. 1-5 – 1-14. Reserved.
Sec. 1-15. General penalty; continuing violations.

(a) Whenever in this Code or in any ordinance of the town any act is prohibited or is made or declared to be unlawful or an offense, or whenever is such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of any such provision of this Code or any ordinance shall be punished by a fine not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) for each offense. Wherever a minimum fine is established in this Code, it shall be deemed a sum certain for each alleged offense in any action brought to enforce this Code. Whenever in this Code a minimum but no maximum fine or penalty is imposed, the minimum fine of penalty so fixed, but not exceeding the sum of one hundred dollars ($100.00). Each act of violation and every day upon which any violation shall occur shall constitute a separate offense.

(b) In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the town counsel may elect under which to proceed; but not more than one (1) recovery shall be had against the same person for the same offense.

(c) In addition to the penalties provided to subsection (a), the town may enjoin or abate any violation of this Code by appropriate action.
Chapter 2

ADMINISTRATION

Art. I. In General, §§ 2-1 – 2-5
Sec. 2-1. Authority
Sec. 2-2. Town Seal
Sec. 2-3. Form of government
Sec. 2-4. Town officials and terms
Sec. 2-5. Other required town offices
Art. II. Funds due to town, §§ 2-6 - 2-11
Sec. 2-6. Purpose
Sec. 2-6a. Definitions
Sec. 2-7. Applicability
Sec. 2-8. Debtor election
Sec. 2-9. Returned checks
Sec. 2-10. Effect on license or permit
Sec. 2-11. Interest on debts and late payment of taxes
Art. III. Disbursements

ARTICLE I. IN GENERAL

Sec. 2-1. Authority

The Town of Long Island was created and acts under the authority of the 115th Maine Legislature, Chapter 100 of the Private and Special Laws of Maine, 1991. “An Act to Allow the Separation of Certain Islands in Casco Bay from the City of Portland” was signed by Governor John McKernan on April 3, 1992, voted favorably by the citizens of the Long Island territory on November 3, 1992, and officially incorporated on July 1, 1993.

There have been two (2) amendments approved to the original Act by the 116th Maine Legislature: “An Act to Clarify the Duties of Municipal Officials of the New Town of Long Island” and “An Act to Correct the Boundary Description of the Town of Long Island.”

Sec. 2-2. Town seal.

The design set forth below shall be the device of the town seal; designed by Rhonda Britton and adopted by “popular” vote at town meeting of May 22, 1993.
State law reference – Municipal authority to adopt a seal, 30 M.R.S.A. § 1902.

Sec. 2-3. Form of government.

The Town of Long Island shall operate under an open town meeting/selectmen form of government and except as noted follow the provisions outlined in 30-A M.R.S.A. §§2521 to 2526/

Sec. 2-4. Town officials and terms.

The town shall, at annual meeting, elect the following town officials by ballot:

A. Moderator;
B. Selectmen, three (3) year term, staggered; first annual meeting to elect for three year term will elect selectmen for 3.2, and 1 year terms by respective order of election;
C. School committee, three (3) year term, staggered; first annual meeting to elect for three year term will elect school committee members for 3.2, and 1 year terms by respective order of election.

Sec. 2-5. Other town offices.

The Selectmen shall appoint the following for three year terms:

A. Town Clerk
B. Tax Collector
C. Treasurer
D. Appeals Board
E. Fire Chief
F. Animal Control Officer
G. Code Enforcement Officer:
   Shoreland Zoning
   Land Use Regulation
   Building Inspector
   Electrical Inspector
H. Emergency Preparedness Agent
I. Local Health Officer
J. Fair Hearing Authority
K. Social Services Administrator
L. Planning Board
M. Harbormaster
N. Assessment Review Board

ARTICLE II. FUNDS DUE TO TOWN

Sec. 2-6. Purpose.

The purpose of this article is to ensure the payment of funds due the town by requiring that persons who owe money to the town pay their just debts before undertaking any new activity involving the town.
Sec. 2-6a. Definitions.

[For purposes of this article the following definitions shall apply unless the context clearly implies otherwise:]

Indebtedness shall mean and include all amounts determined by the tax collector or town clerk to be then due and payable to the town (1) by the payor, (2) by the person in whose name the license or permit was applied for, or (3) by any other person for which such person is financially responsible, and shall include without limitation amounts assessed as taxes upon real or personal property, amounts previously paid by check or credit and subsequently dishonored or disputed, delinquent fees, liens, and charges, and all claims for money, whether liquidated or unliquidated.

Person shall mean any natural individual, firm, trust, partnership, association or partnership (hereinafter “entity”), and any other person operating as an alter ego of such entity or for whose debts such entity may be legally responsible.

Property shall mean and include any property, real or personal, within the town.

Sec. 2-7. Applicability.

The provisions of this article shall not apply to the following:

(1) Debts subject to the jurisdiction of the bankruptcy court;

(2) Debts which are in bona fide litigation in any court of competent jurisdiction;

(3) Lease or contractual obligations requiring a different method of dispute resolution; provided, however, this article shall apply to delinquent amounts due on notes subject to foreclosure;

(4) Payment for any permit where the code enforcement officer certifies that the work authorized thereunder is of an emergency nature to abate a substantial hazard to the public health, safety, or welfare;

(5) Payments to the town as agent for the state or any other person; or

(6) Amounts which the tax collector determines should be the subject of resolution by a court of law rather than through the mechanisms provided by this article.
Sec. 2-8. **Debtor election.**

No person who is indebted to the Town of Long Island in any amount, excepting social service emergency evacuation payments, may designate funds given to the town to be applied for any purpose other then payment of such indebtedness, unless such person first:

1. Pays the full amount of such indebtedness;
2. Gives a promissory note to pay the amount of such indebtedness on a schedule, and with interest, each of which shall be acceptable to the tax collector and thereafter complies fully with the terms thereof;
3. Check this item p. 157 – Sec. 2-205-6

Sec. 2-9. **Returned checks.**

(a) All payments made by check or charge shall be deemed provisional only, until such time as payment is finally made to the town.

(b) Any person who delivers to the town any check which is not honored by the drawee bank shall be liable to the town for the amount of ten dollars or for the actual amount charged as a return check fee to the town by the bank, whichever is greater, as a returned check fee.

Sec. 2-10. **Effect on license or permit.**

Any license or permit issued in reliance upon a provisional payment shall be and remain Provisional until such time as payment is received by the town. If the full amount of the dishonored check and the charge specified in paragraph (b) of this section 2-9 are not paid within five (5) days of the licensee or permittee having knowledge of the dishonor of the check, such provisional license shall be deemed null and void as of the date of such notice or knowledge.

Sec. 2-11. **Interest on debts and late payments of taxes.**

Any person who fails to pay any fee or charge due the town pursuant to any section of this Code on or before the last date prescribed for payment shall be liable for interest on the fee or charge. The rate of interest shall be the maximum rate of interest established for that year by the state tax assessor for purposes of delinquent taxes and shall be calculated from the last date prescribed for payment. Envelopes postmarked on or before the date will be considered on time.

**ARTICLE III. DISBURSEMENTS**

Sec. 2-12. **Disbursement Warrant Ordinance**

(1) Purpose.

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

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

(3) Procedure for Approval.
The treasurer may disburse money only on the authority of a warrant drawn for the purpose, either (a) affirmatively voted and signed by a majority of the municipal officers at a duly called public meeting, (b) seen and signed by a majority of them acting individually and separately, or (c) signed as otherwise provided by law for the disbursement of employees’ wages and benefits and payment of municipal education costs.
Chapter 3

TOWN OF LONG ISLAND

CIVIL EMERGENCY
PREPAREDNESS ORDINANCE

Sec. 3-1. Purpose.

It is the intent and purpose of this ordinance to establish a bureau of civil emergency preparedness in compliance and in conformity with the provisions of Title 37-B, M.R.S.A., Section 781 et seq., to ensure the complete and efficient utilization of the town’s facilities and resources to combat disaster as defined herein.

Sec. 3-2. Definitions.

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

*Bureau.* “Bureau” shall mean the bureau of emergency preparedness as established by this ordinance.

_Civil emergency preparedness._ “Civil emergency preparedness” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, air raid warning and communications services; evacuation of persons from stricken areas; allocation of critical materials in short supply; emergency transportation; other activities related to civilian protection and other activities necessary to preparation for the carrying out of these functions.

_Civil emergency preparedness forces._ “Civil emergency preparedness forces” shall mean the employees, equipment and facilities of all town departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

*Director.* “Director” means the director of the Town of Long Island bureau of emergency preparedness, appointed as prescribed in this article.

“Disaster” means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other
water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, critical material shortage, infestation, explosion or riot.

Sec. 3-3. Organization.

(a) The municipal officers shall be responsible for the bureau’s organization, administration and operation. The municipal officers may employ such permanent or temporary employees as they deem necessary and prescribe their duties.

(b) The municipal offices shall review the existing operational organization on a periodic basis to ascertain the bureau’s ability to dope with its responsibilities and shall approve the town’s emergency preparedness plan.

Sec. 3-4. Appointment of director; duties and responsibilities.

The municipal officers shall appoint the director of the bureau, who shall coordinate the activities of all town departments, organizations and agencies for civil emergency preparedness within the town and maintain a liaison with other civil preparedness agencies, public safety agencies, and have such additional duties as prescribed by municipal officers.

Sec. 3-5. Rules and Regulations.

The director shall prepare such policies as may be deemed necessary for the administration and operational requirements of the bureau, which policies must be approved by municipal officers prior to becoming effective.

Sec. 3-6. Emergency proclamation

(a) The municipal officers shall have the power and authority to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the town. If the municipal officers are temporarily absent from the town or otherwise unavailable, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession; the director; if he is unavailable, the fire chief. A copy of such proclamation shall be filed within twenty-four (24) hours in the office of the town clerk.

Notwithstanding the above, when consultation with municipal officers would result in an effective response in alleviating or preventing an emergency or disaster, the director is authorized to take whatever actions are necessary to prevent the loss of life and property in the town.

(c) The director shall be responsible for submitting a full report to the municipal officers of all actions taken as a result of the declared emergency as soon as possible.
Sec. 3-7. Termination of emergency.

(a) When municipal officers are satisfied that a disaster or civil emergency no longer exist, they shall terminate the emergency proclamation by another proclamation affecting the sections of the town covered by the original proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the town clerk.

(b) No state of emergency may continue for longer than five (5) days unless renewed by the municipal officers.

Sec. 3-8. Municipal Officers duties and emergency powers.

(a) During any period when and emergency or disaster exists or appears imminent, the municipal officers may promulgate such regulations as they deem necessary to protect life and property and to preserve critical resources within the purposes of this ordinance. Such regulations may include, but are not limited to, the following:

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

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

b. The municipal officers or their designee may order the evacuation of persons from hazardous areas within the city.

c. The municipal officers shall be authorized to request aid or assistance from the state or any political subdivision of the state and shall render assistance to other political subdivisions under the provisions of Title 37-B, M.R.S.A..

d. The municipal officers may obtain vital supplies, equipment and other items found lacking and needed for the protection of health, life and property.

e. The provisions of this section will terminate at the end of the declared emergency.
Sec. 3-9. **Emergency operation plans.**

The director shall prepare and emergency operational plan for the town, which shall be submitted to the municipal officers for approval.

It shall be the responsibility of all municipal departments and agencies to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The town plan shall be reviewed periodically by the municipal officers with conjunction with all town department heads and the director.

Sec. 3-10. **Immunity from liability.**

All members of civil emergency preparedness forces, while engaged in civil emergency preparedness activities, shall be immune from liability, as set forth in Title 37-B, Section 822 M.R.S.A..

Sec. 3-11. **Compensation for injuries.**

All members of civil emergency preparedness forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the Workmen’s Compensation Act, as set forth in Title 37-B, Section 823 M.R.S.A.

Sec. 3-12. **Violation of Regulations.**

It shall be unlawful for any person to violate any provisions of this ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to obstruct, hinder or delay any member of the civil emergency preparedness organization as herein defined in the enforcement of the provisions of this ordinance or any regulation or plan issued thereunder.

Sec. 3-13. **Penalty.**

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

Sec. 3-14. **Severability.**

Should any provision of this ordinance be declared invalid for any reason, such declaration shall not effect the validity of other provisions, or of this as a whole, it being the legislative intent that the provisions of this shall be severable and remain valid notwithstanding such declaration.
Sec. 3-15. Conflicting ordinances, orders, rules and regulations made and promulgated pursuant to this ordinance shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent herewith.
Chapter 4

AMUSEMENTS*

Art. I. In General, §§ 4-1 – 4-15

Art. II. Amusement Devices, §§ 4-16 – 4-40
   Div. 1. Generally, §§ 4-16 – 4-25
   Div. 2. License, §§ 4-26 – 4-40

Art. III. Music, Dancing and Special Entertainment, §§ 4-41 – 4-70
   Div. 1. Generally, §§ 4-41 – 4-50
   Div. 2. License, §§ 4-51 – 4-70

Art. IV. Gaming, §§ 4-71 – 4-82
   Div. 1. Generally, §§ 4-71 – 4-80
   Div. 2. License, §§ 4-81 – 4-82

*Cross reference—Zoning regulation of adult business establishments, § 14-373 et seq.
State law reference—Pinball machines, 8 M.R.S.Z. § 441 et seq.

ARTICLE I. IN GENERAL

Secs. 4-1 – 4-15. Reserved.

ARTICLE II. AMUSEMENT DEVICES

DIVISION 1. GENERALLY

Sec. 4-16. Definitions.

Words used in this article shall have their common meaning, except that the definitions set forth in chapter 15, or in this section shall apply unless the context clearly indicates a different meaning:

Amusement device shall mean and include any vending machine, miniature pool and bowling machine, pinball machine, foosball, and any other device mechanical or otherwise which upon payment of a fee or insertion of a coin, disc, or other insertion piece, whether or not also manipulated by the operator, may be used by the public generally as a game, amusement or entertainment, whether or not registering a score and which does not dispense any form of pay-off, prize, or reward, other than an additional free use of the device itself. (Code 1968, § 904.2; Ord. No. 231-80, 12-22-80)


Sec. 4-17 -- 4-25. Reserved.
DIVISION 2. LICENSE*

Sec. 4-26. Required.

No person shall keep for public patronage or permit or allow the operation of any amusement device in or on any premises or location under his or her charge, control or custody, without having a license for each such device from the town. (Code 1968, § 904.1; Ord. No. 231-80, 12-22-80)

Sec. 4-27. Notice and hearing.

The town clerk shall conduct a public hearing with respect to the grant of any original license issued under this division. (Code 1968, § 904.5; Ord. No. 231-80, 12-22-80)

Sec. 4-28. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division. (Code 1968, § 904.6; Ord. No. 231-80, 12-22-80)

Secs. 4-29 – 4-40. Reserved.

*Cross reference—Licenses and permits generally, Ch. 15.

ARTICLE III. MUSIC, DANCING AND SPECIAL ENTERTAINMENT*

DIVISION 1. GENERALLY

Sec. 4-41. Purpose.

The purpose of this article is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the state to sell liquor as provided by state law, entertainment in bottle clubs, and to control the operation of dance halls. (Code 1968, § 907.1; Ord. No. 231-80, 12-22-80)
Sec. 4-42. Definitions.

Terms used in this article shall have their common meaning except that the definitions set forth in chapter 15 and/or in this section shall apply unless the context clearly indicates that a different meaning is intended.

*Dance* shall mean every dance not held in a private residence; other than a class in which instruction in dancing is given for hire, or any dance held in a school hall under direct supervision of school authorities, or any dance conducted by and exclusively for the benefit of any bona fide charitable organization.

*Dance hall* shall mean any building, room, hall, or other public place which is kept or used for public dancing, or which for compensation paid directly or indirectly to the owner, manager, or operator thereof, men, women or children are permitted to engage in dancing.

*Entertainment* shall mean and include any amusement, performance, or exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

(Code 1968, § 907.3; Ord. No. 231-80, 12-22-80)


Secs. 4-43 – 4-50. Reserved.

*State law references—Dances, 8 M.R.S.A. § 161 et seq.; special permit for music, dancing or entertainment, 28 M.R.S.A. § 702.

DIVISION 2. LICENSE†

Sec. 4-51. Required.

(a) No person licensed by the state to sell liquor to be consumed on the premises, and no bottle club licensed by the city, shall permit on the premises any music except that produced by radio or mechanical device, any dancing, or entertainment of any sort without an entertainment license from the city.

(b) No person shall conduct or maintain a dance hall without a dance hall license. (Code 1968, § 907.2; Ord. No. 231-80, 12-22-80)

Sec. 4-52. Application.

Application for a license under this division shall in addition to the requirements of chapter 15, contain the name of the owner or person in control of the building, the location of the premises, a plan of the premises, giving in detail the
dimensions and diagram of space to be used for dancing, dressing rooms, check rooms, toilet rooms, entrances, exits, stairways and fire escapes.
(Code 1968, § 907.5; Ord. No. 231-80, 12-22-80)

Sec. 4-53. Hearings.

A public hearing shall be held prior to issuance of any original license under this division other than a single dance license.
(Code 1968, § 907.5; Ord. No. 231-80, 12-22-80)

Sec. 4-54. Appeals.

Appeal from the denial, suspension or revocation of an entertainment license to a person licensed by the state to sell liquor shall be taken to the municipal board of appeals within thirty (30) days of such denial, suspension or revocation. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial suspension or revocation was arbitrary or capricious. The denial, suspension or revocation of all other licenses or permits required hereunder shall be to the selectman as provided under chapter 15.
(Code 1968, § 907.6; Ord. No. 231-80, 12-22-80)

Sec. 4-55. Duration.

Licenses shall be granted, denied, suspended or revoked in accordance with chapter 15, but in the case of an entertainment license, it shall be deemed terminated upon expiration or revocation of the respective state license to sell alcoholic beverages or the municipal bottle club license, as the case may be, prior to the expiration of the one-year period. (Code 1968, § 907.7; Ord. No. 231-80, 12-22-80)

Sec. 4-56. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.
(Code 1968, § 907.8; Ord. No. 231-80, 12-22-80)

Secs. 4-57 – 4-70. Reserved.

†Cross reference—Licenses and permits generally, Ch. 15.
ARTICLE IV. GAMING*

DIVISION 1. GENERALLY

Sec. 4-71. Legislative findings and purpose.

It is the sense of the city council, having the power to consent to the operation or conduct of any beano or game of chance within the city, that such consent should be conditioned and exercised in accordance with the standards set forth in chapter 15, as modified by this article. (Code 1968, §909.1; Ord. No. 231-80, 12-22-80)

Sec. 4-72. Definitions.

Terms used in this article shall have their common meaning, except that definitions set forth in chapter 15 or in this section shall apply unless the context clearly indicates that a different meaning is intended.

Beano shall mean and include bingo, any other form of lotto, or any other activity defined as being bingo or beano by the applicable licensing provision of the state for which the consent of the city council is required.

Game of chance shall mean and include any game, contest, scheme, or device other than beano where a person stakes or risks something of value and in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestant or participant may be a factor therein, or any game of chance, machine, raffle, or otherwise, defined and licensed as such by the applicable licensing provision of the state for which the consent of the city council is required. (Code 1968, § 909.2; Ord. No. 231.80, 12-22-80)


Secs. 4-73 – 4-80. Reserved.

DIVISION 2. LICENSE†

Sec. 4-81. Applications and fees.

Applications for a state license to conduct beano or a game of chance shall be deemed sufficient applications for the purpose of chapter 15 if accompanied by the fees prescribed therein. Upon compliance with this article and chapter 15, the clerk shall signify the consent of the city council to such application. (Code 1968, § 909.3; Ord. No. 231-80, 12-22-80)
Sec. 4-82.   General provisions to apply.

    Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.
    (Code 1968, § 909.4; Ord. No. 231-80, 12-22-80)

*State law reference—Beano or Bingo, 17 M.R.S.A. § 301 et seq.
†Cross reference—Licenses and permits generally, Ch. 15.
Chapter 5

ANIMALS AND FOWL

ARTICLE 1. IN GENERAL

Sec. 5-1. Purpose.

The purpose of this Ordinance is to require, in accordance with Title 7, M.R.S.A., Part 9, that all dogs in town be kept under the control of their owners at all times so that they will no injure persons, damage property, or create a nuisance.

Sec. 5-2. Construction.

The provisions which apply to the owner of a dog apply equally to any person having its custody or possession.

ARTICLE II. DOGS

DIVISION 1. GENERALLY

Sec. 5-3. Definitions.

The following words when used in this article shall have the meaning given herein:

*At large* shall mean and include any of the following:

1. On public streets or publicly owned property including beaches, wharves, floats, and cemeteries unless controlled by a leash or other tether of not more than eight (8) feet in length;

2. In a motor vehicle parked and not restrained from projecting its head from the vehicle;

*Dangerous dog* means a dog which has bitten a person who was not a trespasser with a criminal intent of the owner’s premises at the time of the incident; a dog which causes serious injury or death to another animal; or a dog which causes reasonable fear of bodily injury to a person acting in a peaceable manner outside the owner’s premises.

*Owner* shall mean and include any person owning, keeping, possessing, or harboring a dog.
Public street shall mean and include any street, whether accepted or unaccepted, and include turnarounds, parking lots and other portions thereof.

Publicly owned property shall mean and include all property owned by the town, including without limitation any park or cemetery of the town, and all property owned by any other public or governmental entity unless such entity has established different regulations.

Sec. 5-4. License required.

No dog shall be kept within the limits of the town unless such dog shall have been licensed and such license displayed by its owner in accordance with the statutes of the state. The provisions of this section shall not apply to any dog belonging to an out of state resident visiting within the town without the intention of becoming a resident, but the owner of such a dog shall comply with the remaining provisions of this article.

State law reference- Licenses for dogs, 7 M.R.S.A. § 3451 et seq.

Sec. 5-5. Running at large prohibited.

No dog shall be permitted to be at large within the town. Anyone whose dog, while at large and without provocation, assaults any person shall be subject to a penalty of double the otherwise applicable penalty.

Sec. 5-6. Dangerous dog.

It shall be unlawful to own or possess a dangerous dog as defined in sec. 5-3, except when such dangerous dog is confined or muzzled.

Sec. 5-7. Disturbing the peace.

No person shall own, possess, or harbor any dog which by loud, frequent, or habitual barking, howling, or yelping, disturbs the peace of any person. Any person who shall violate the provisions of this section shall, upon the first occasion thereof, be given a warning and shall, upon conviction of any subsequent violations within a period of six (6) months from such warning, be subject to a fine of not less than ten ($10.00) and not more than one hundred ($100.00) dollars.

Sec. 5-8. Interference with dog control officer prohibited.

No person shall interfere with, hinder or molest any dog control officer in the performance of any duty of such officer, or seek to release any dog in the custody of a dog control officer, except as provided in this article.
Sec. 5-9. Records to be kept.

It shall be the duty of a dog control officer to keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment and disposition of all dogs coming into his or her custody.

DIVISION 2. IMPOUNDMENT

Sec. 5-10. Causes; confinement period.

Unlicensed dogs, whether or not at large, and dogs found running at large, whether or not licensed, shall be taken and impounded by a dog control officer in a shelter designated by the town as the town animal shelter and there confined for a period of not more than eight (8) days.

Sec. 5-11. Notice to owner if possible.

Where the ownership of any dog impounded under section 5-7 is known or can be reasonably ascertained by a dog control officer, such officer shall, if possible, notify the owner within three (3) days of such impoundment, but failure to give such notice shall in no way impose any liability upon the town for the destruction or transfer to another of any dog so impounded and not reclaimed within a period of eight (8) days.

Sec. 5-12. Redemption by owner.

Any owner may regain possession of an impounded dog upon presentation of a valid certificate of vaccination against rabies, a license for the current year and the payment of the accrued impoundment and boarding fees.

Sec. 5-13. Refusing to reclaim dog.

It is unlawful for a person to fail or refuse to reclaim his dog and pay the cost required by Sec. 12 within one week after receiving oral or written notice of its impoundment.

Sec. 5-14. Disposition of unclaimed dogs.

Any dog impounded under the provisions of this division and not reclaimed by the owner within the eight (8) days shall be considered to be abandoned by the owner and the property of the city and may, after consultation with the Humane Society and/or the Animal Refuge League, be humanely destroyed or given to the Humane Society and/or the Animal Refuge League or any person deemed to be responsible and a suitable owner who will agree to comply with the provisions of this article.
Sec. 5-15. Disposition of dogs which have bitten persons.

The owner of a dog who knows or has been advised that their dog has bitten a person shall have the dog confined at Animal Rescue League, at the owner’s expense, for at least ten consecutive days and shall notify the Health Officer immediately of the time, place, and reason for the confinement. During the period of confinement, the owner shall not destroy the dog nor allow it to be destroyed.

Sec. 5-16. Fees.

(a) Any dog impounded under this division may be reclaimed upon payment of the accrued boarding charges at the rate established pursuant to Title 7, M.R.S.A., Part 9.

DIVISION 3. CANINE WASTE

Sec. 5-17. Duty to dispose.

It shall be a violation of this division for any person who owns, possesses or controls a dog to fail to remove and dispose of any feces left by his/her dog on any street, publicly owned property, or property of another person without permission.

Sec. 5-18. Enforcement.

The provisions of this division may be enforced by any designated representative of the health officer, any law enforcement officer, or any animal control officer.

Sec. 5-19. Penalties for violation.

Violation of this division shall be punished by a civil penalty not to exceed fifty dollars ($50.00) for each occurrence.

Sec. 5-20. Exemption.

This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this division.
ARTICLE III. KEEPING OF DOMESTICATED FOWL

Purpose.

The purpose of this article is to provide standards for the keeping of domesticated fowl in the IR-1, IR-2 and I-B zones as a conditional use. It is intended to enable residents to keep a small number of fowl on a noncommercial basis while creating standards and requirements that ensure that domesticated fowl do not adversely impact the neighborhood surrounding the property on which the fowl are kept.

Sec. 5-21 Number and type of fowl allowed.
(a) The maximum number of fowl allowed is twenty (24) per lot regardless of how many dwelling units are on the lot.

(b) Fowl allowed include chickens, turkeys, ducks and others may be kept as well.

Sec. 5-22 Non-commercial use only.
(a) Fowl shall be kept as pets and for personal use only; eggs can be sold to offset cost but no person shall engage in fowl breeding or fertilizer production for commercial purposes.

Sec. 5-23 Enclosures.
(a) Fowl should remain on the permittees property and not be a nuisance to abutting property owners. Fowl must have access to an enclosure or fenced area (fowl pen) for protection from predators, roosting and egg laying. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition, at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.

(b) Fowl shall be secured within a fowl house during non-daylight hours.

(1) Any type of fowl house shall be at least twenty-five (25) feet from any residential structure or any other premises on any adjacent lots. The structure shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and latched at night. The fowl house must be well maintained.

(2) Fowl houses shall meet zoning setbacks applicable to detached accessory structures (sheds). For property where no rear yard exists, a side yard may be used as long as the setbacks for structures generally applicable in the zoning district are met. In no case may a fowl house be placed in the
front yard. Fowl houses are not allowed to be located in any part of a
home.

Sec. 5-24 Odor and noise impacts.
(a) Odors from fowl, fowl manure, or other fowl related substances, shall not be
perceptible at the property boundaries.

(b) Perceptible noise from fowl shall not be loud enough at the property boundaries
to disturb persons of reasonable sensitivity.

Sec. 5-25 Predators, rodents, insects, and parasites.
The property owner and/or fowl owner shall take all necessary action to reduce the
attraction of predators, rodents and insects that could result from the presence of fowl and
their enclosures. If unhealthy conditions to human habitation result from keeping of
fowl, they may be removed by the Town through the Animal Control Officer, or any
other designee, and the cost of the same shall be borne by the property owner and/or fowl
owner.

Sec. 5-26 Feed and water.
Fowl must be provided with access to feed and clean water; such feed and water shall be
unavailable to rodents, wild birds and predators.

Sec. 5-27 Waste storage and removal.
Provision must be made for the storage and removal or composting of fowl manure.
Stored manure shall be covered by a fully enclosed vented container. No more than one,
twenty gallon container of manure shall be stored on any one property housing fowl.
Manure composting shall be done in a suitable location so as not to create a nuisance to
abutting property owners. In addition, the fowl house, fowl pen and surrounding area,
must be kept free from trash and accumulated droppings. Uneaten feed shall be removed
in a timely manner.

Sec. 5-28 Revocation of permit.
A permit to keep fowl may be revoked where there is a risk to public health or safety or
for any violation of or failure to comply with any of the provisions of this article.

Sec. 5-29 Removal of fowl.
If an order to remove fowl is issued by the Animal Control Officer, the Health Officer or
the Code Enforcement Officer, the fowl must be removed within thirty (30) days of the
date that the order is issued. This includes all structures related to all of the fowl.
Chapter 6

BUILDINGS AND BUILDING REGULATIONS*

Art. I. In General, §§ 6-1 – 6-15
Art. II. Building Code, §§ 6-16 – 6-31
Art. III. Electrical Code, §§ 6-32 – 6-85
Div. 1. Generally, §§ 6-32 – 6-50
Div. 2. Permits, §§ 6-51 – 6-65
Div. 3. Inspection and Enforcement, §§ 6-66 – 6-85

*Cross references—Alarm systems, Ch. 2.5; fire prevention and protection, Ch. 10; land use, Ch. 14; rodent and vermin control, Ch. 22; sewers, Ch. 24; streets, sidewalks and other public places, Ch. 25; moving of structures, § 25-191 et seq.; swimming pools, Ch. 26.

ARTICLE I. IN GENERAL

Secs. 6-1 – 6-15. Reserved.

ARTICLE II. BUILDING CODE
(Repealed and adopted December 3, 2011)

Maine Uniform Building and Energy Code (MUBEC), as adopted on October 11, 2010 by the Maine Department of Public Safety’s Building Codes and Standards Board. MUBEC shall be effective retroactive to September 28, 2011. The Penalty for violation of any provision of MUBEC shall be as provided by 30-A M.R.S.A., Section 4452. A copy of MUBEC is and shall remain on file with the municipal clerk and is available for public use, inspection and examination.

ARTICLE III. ELECTRICAL CODE

DIVISION 1. GENERALLY

Sec. 6-32. Adoption of the National Electrical Code.

There is hereby adopted for the purpose of regulating the construction, installation, alteration, repair, maintenance and removal of electric conductors and equipment installed within or on public and private buildings or other structures including mobile homes and recreational vehicles and other premises such as yards and other lots and industrial substations; for the purpose of regulating the connection of such installations to a supply of electricity and for the purpose of regulating any other outside conductors on the premises, the National Electrical Code, latest edition (as recommended by the National Fire Protection Association), which is adopted and approved and made a part of this Code without exception as fully as if every word were printed herein.

State law references—Electrical installations, 30-A M.R.A.S. 4151 et seq;
Sec. 6-33. -  6-56. Reserved.

Sec. 6-56.  Electrical Fees (Amended May 9, 2009)

Minimum Fee  $20.00  
100 amp service  $20.00  
200 amp service  $25.00  
Each additional sub panel (including generator panel)  $10.00

Wiring Permits:
1-24  Light, receptacle, switch outlets  $20.00  
25-50  Light, receptacle, switch outlets  $40.00  
50+  Light, receptacle, switch outlets  $60.00

Temporary Service  $20.00

Belated Permit  Double Permit Fee

All work requires a permit. If upon inspection by the electrical inspector there is found to be work performed that was not included on the permit, an additional permit to cover this work must be obtained, and the fee for the additional permit shall be double the fee set forth above.
ARTICLE I. IN GENERAL

Secs. 10-1 – 10-15. Reserved.

ARTICLE II. FIRE PREVENTION CODE

Sec. 10-16. Adoption of Fire Prevention Code.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code NFPA (one) 1 Latest Edition thereof and the whole thereof, without exception. One copy has been and now is filed in the office of the town clerk and the same are hereby adopted and incorporated as fully as if set out at length herein, and shall be controlling within the limits of the Town of Long Island (Code 1968, § 321.1; Ord. No. 389-72, 9-6-72).

State law reference – Authority to adopt codes by reference, 30 M.R.S.A. § 2156.

Sec. 10-17. Definitions.

(a) Wherever the word “municipality” is used in the Fire Prevention Code, it shall be held to mean the Town of Long Island.

(b) Wherever the words “chief of the fire department,” “chief of the bureau of fire prevention,” “bureau of fire prevention,” or “fire marshal” are used in the Fire Prevention Code, they shall be held to mean the chief of the fire department of the Town of Long Island or his or her duly authorized representative.


State law references-Fire prevention and fire protection, 25 M.R.S.A. § 2351 et seq.; municipal fire protection, 30 M.R.S.A. § 3771 et seq.
Model Local Ordinance for Aboveground Heating Oil Supply Tanks (AST’s)

Sec. 10-18. INSTALLATION OF ABOVEGROUND HEATING OIL SUPPLY TANKS

1. Purpose and authority.
   To regulate the installation of aboveground heating oil supply tanks in order to provide reasonable assurance that such tanks will not, by rupture, sagging, collapse, leaking, or other failure, degrade the natural environment and threaten public health and welfare. The authority for this ordinance is municipal home rule authority established under the Maine Constitution and 30-A M.R.S.A. Sec. 3001.

2. Applicability.
   This ordinance applies to all aboveground heating oil supply tanks or 660 gallons or less.

3. Findings.
   Improperly installed aboveground heating oil supply tanks and piping systems can fail and contaminate important individual and regional groundwater supplies as well as cause extensive property damage. Reasonable regulation of the installation of such tanks and associated systems can aid in ensuring against such failures and consequent contamination. Because of the nature of the threat to groundwater supplies, it is important also to regulate installations in place before the effective date of this ordinance.

4. Definitions.
   For purposes of this ordinance, the following words have the following meanings:

   **Aboveground heating oil supply tank** means a tank which supplies fuel to a furnace, boiler, or other oil-burning appliance along with associated piping, filters, valves, and other ancillary equipment which normally contains heating oil. Included in this definition are oil tanks installed inside buildings (including those installed in basements) as well as those located out-of-doors.

   **Heating oil** means kerosene, home heating oil, #1 and #2 fuel oil, and any other grade of liquid petroleum product used as fuel by a furnace, hot water heater, room heater, or boiler. The definition of heating oil does not include waste oil or propane.

   **Firm sub-grade** means a minimum of six inches of well draining gravel or a minimum of six inches of crushed stone.

   **Town** means the Town of Long Island.
5. General Installation Requirements.

The following requirements apply to all aboveground heating oil supply tanks and their associated piping systems.

(a) **Licensed technician required.** All tank and piping systems must be installed by an oil burner technician licensed by the State of Maine Oil and Solid Fuel Board.

(b) **NFPA 31 and Board Rules; applicability.** Except as otherwise provided in this ordinance, all tank and piping systems must be installed in accordance with NFPA 31, the National Fire Protection Association “Standard for the Installation of Oil Burning Equipment” 1997 Edition, and the rules of the Maine Oil and Solid Fuel Board, effective date 2 February 1998.

(c) **Corrosion protection; buried piping.** All piping must be protected against corrosion according to NFPA 31, section 3-1.5. For the purpose of this ordinance, buried piping (including copper piping) is not considered to be protected against corrosion unless it is sleeved in PVC, flexible ABS pipe, or electrical non-metallic tubing (ENT) and the sleeves are installed with the ends of the sleeve extended 2 inches above grade on each end so that any leak from the primary line is contained and discharged to a floor or the ground surface where it can be observed.

6. Outdoor Heating Oil Tanks and Piping.

The following apply to all outdoor installations of aboveground heating oil supply tanks and/or their associated piping systems.

(A) **Protection from snow and ice.** NFPA 31, section 2-4-2, allows tanks of 660 gallons or less to be installed outdoors if the tanks are “suitably protected from the weather and from physical damage.” For the purpose of this ordinance, a tank is considered to be suitable protected from physical damage if:

1. The tank is located such that it is not subject to damage from falling snow or ice. To meet this ordinance the tank and outdoor piping may be:

   a. Located at the gable end of a building;

   b. Fully covered by a shed roof determined by the municipal Code Enforcement Officer to meet the requirements of any building code of this jurisdiction applicable to structures; or

   c. Located such that no portion of the tank or unsupported piping is within two feet of the drip line of the eaves.

2. The requirements of the above paragraph may be met by installing a protective cover over the oil filter and any piping without structural support or not attached to the side of a building.
3. Buildings with flat roofs are considered to have eaves on all sides of the building.

(B) Tank Supports.

1. Outside, horizontal, tanks of 350 gallons or less must:
   a. Be supported by a minimum of four (4) solid 8” x 16” x 4” concrete blocks on a firm sub-grade; and
   b. Be mounted on legs not exceeding 12 inches in length with 1 – ¼ floor flanges; and
   c. Not have the leg brackets of the tank used for support on the blocks; and
   d. Maintain a minimum of 4” clearance between the bottom of the tank and any surface.

2. Outside, vertical, tanks of 350 gallons or less must:
   a. Must be supported by a minimum 3” reinforced concrete slab (one piece construction) on a firm subgrade; and
   b. Be mounted on legs not exceeding 12 inches in length with 1 – ¼ inch floor flanges; and
   c. Not have the leg brackets of the tank used for support on blocks; and

3. Tank support structures may not be constructed of wood.

7. Retrofitting of existing installations required. All components of an aboveground heating oil supply tank comprising an installation in actual existence before the effective date of this ordinance must be brought into compliance with all requirements of this ordinance not later than January 1, 2003. Any piping associated with such an installation must be brought into compliance with all requirements of this ordinance not later than January 1, 2000.

OPTIONAL PERMITTING PROVISION

8. Permit Required. A minimum of five (5) business days before a furnace, boiler, other oil-burning appliance, or heating oil supply tank is installed, either as new construction or as the result of replacement or remodeling, the building owner is required to obtain a permit from the municipal Code Enforcement Officer. No fee may be charged for this permit. The Code Enforcement Officer may waive the 5 day requirement for emergency installations. The permit application must be filed on a form provided by the town. The application must contain the following information:
Description of the installation and equipment involved
Tax map and lot number of building
Street address of building
Mailing address of building
Name, address, and telephone number of owner
Signature of owner
Signature of the Maine Oil burner Technician performing the installation
Certification statement that installation meets the requirements of this ordinance

9. Enforcement; penalty. The municipal Code Enforcement Officer Chief is responsible for enforcement of this ordinance. This ordinance being for the protection of the public health, welfare, and the natural environment, a violation of it may be prosecuted pursuant to 30-A M.R.A.A. Sec. 4452, as the same may be amended from time to time, and the civil penalties established by it and all other provisions of that statute shall apply. Each day of non-compliance with this ordinance shall constitute a separate violation of it.

10. Severability. Should any part of this ordinance be determined by a court of competent jurisdiction to be invalid, such invalidity in part shall not affect the validity of any other part of the ordinance.

11. Effective date. This ordinance shall become effective upon adoption by the municipal legislative body.

Note to CEO or Fire Chief: Any CEO or Fire Chief should give a landowner a notice of violation, explaining the requirement and the violation, specifying what then must be done in order to bring the installation into compliance with the ordinance, specifying a deadline for compliance, and providing information on any route available for appealing or otherwise seeking review of the CEO’s or Fire chief’s determination that a violation exists. This should be done a reasonable time before initiating a rule 80(k) action or recommending that the municipal officers engage an attorney to prosecute the violation.
Chapter 10-A

CONSUMER FIREWORKS ORDINANCE

Section 1. Purpose
The purpose of this Ordinance is to prohibit the sale and restrict the use of consumer
fireworks to ensure the safety of the residents and property owners of the Town of Long
Island and of the general public.

Section 2. 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. § 3001, and the provisions of 8 M.R.S. § 223-A.

Section 3. Definitions
The following words, terms and phrases, when used in this Ordinance, shall have the
same meanings ascribed to them as in 8 M.R.S. § 221-A, as may be amended from time
to time, except where the context clearly indicates a different meaning:

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

A. Missile-type rockets, as defined by the State Fire Marshal by rule;

B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

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

Note: The products listed above in subsections A, B, and C are illegal to sell, use or possess in Maine except by State licensed pyrotechnicians as part of a permitted fireworks display.
Fireworks. "Fireworks" means any:

A. Combustible or explosive composition or substance;

B. Combination of explosive compositions or substances;

C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;

D. Fireworks containing any explosive or flammable compound; or

E. Tablets or other device containing any explosive substance or flammable compound.

The term "fireworks" does not include consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

Section 4. Sale of Consumer Fireworks Prohibited
No person shall sell or offer for sale consumer fireworks within the Town of Long Island.*

Section 5. Consumer Fireworks Use Permit Required
A person must first obtain a consumer fireworks use permit from the Town of Long before using consumer fireworks. An application for a permit must be filed with the Town at least five (5) days before the proposed date of use and include, at a minimum, the name and address of the applicant, date of application, date of proposed use, hours and duration of use, location of use, written permission of landowner if location is not on land owned by applicant or the Town, and signature of applicant. No permit may be issued to an applicant who is less than 21 years of age.

The Town may issue a permit if it is found that the use meets the following requirements and will not create a fire danger, a danger to the persons at the location of the anticipated use, or a danger or nuisance to the general public.
(a) The Town assumes no liability for injuries that result from the use of consumer fireworks regardless of the status of a permit.

(b) A permit only may be issued for the following days and during the following times:

   i. July 3rd, beginning at 9:00 a.m. and ending at 10:00 p.m.;
   
   ii. July 4th, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day;
   
   iii. December 31st, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day;
   
   iv. January 1st, beginning at 9:00 a.m. and ending at 10:00 p.m.

(c) A permit only may be issued to use consumer fireworks at the following locations:

   i. South Beach;
   
   ii. Front Beach;
   
   iii. Boston Sand and Gravel, also known as Long Island Land;
   
   iv. Cleaves Landing and Beach; and
   
   v. East End Beach.

   A map or plan depicting these specific areas will be maintained and posted at the Town Office.

Section 6. Acts Prohibited by State Law
Pursuant to 8 M.R.S. § 223-A, as may be amended from time to time, a person may not knowingly procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks. A person under 21 years of age may not purchase, use or possess consumer fireworks within the State or present to a person licensed to sell consumer fireworks any evidence of age that is false, fraudulent or not actually the person's own for the purpose of purchasing consumer fireworks.
**Section 7. Violation and Enforcement**

(a) **Penalty for sale violation.** Any person who sells consumer fireworks in violation of the provisions of this Ordinance shall commit a civil violation punishable by a penalty of one thousand dollars ($1,000.00) plus attorney’s fees and costs, to be recovered by the Town of Long Island for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

(b) **Penalty for use violation.** Any person who uses consumer fireworks in violation of the provisions of this Ordinance shall commit a civil violation punishable by a penalty of two hundred dollars ($200.00) plus attorney’s fees and costs, to be recovered by the Town of Long Island for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

(c) **Injunction.** In addition to any other remedies available at law or equity, the Town of Long Island, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

(d) **Seizure & disposal of consumer fireworks.** The Town may seize consumer fireworks that the Town has probable cause to believe are used in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

**Section 8. Exception**

This Ordinance does not apply to a person issued a fireworks display permit by the State of Maine pursuant to 8 M.R.S. § 227-A. Display has the same meaning as in 8 M.R.S. § 221-A(3).

**Section 9. Severability**

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

**Section 10. Effective Date**

This Ordinance shall become immediately effective upon approval at Town Meeting.

*Note: State law prohibits the sale and possession of all fireworks, with the exception of consumer fireworks, which are small fireworks devices as defined under state law. See 8 M.R.S. §§ 221-A, 223. By prohibiting the sale of consumer fireworks, the Town is effectively prohibiting the sale of all fireworks in the Town of Long Island.*
ARTICLE I. IN GENERAL

Sec. 11-1. Contaminated items of food or drink.

No person shall knowingly sell, offer for sale, or hold for sale in the city any unwholesome, stale, putrid, diseased, or otherwise contaminated items of food or drink, and shall make such immediate disposition of all items found in such condition as shall be ordered by the health authority.

(Code 1968, § 303.1)

State law reference—Sale or possession of unwholesome food or drink, 17 M.R.S.A. § 3451 et seq.

Secs. 11-2 – 11-15. Reserved.

ARTICLE II. FOOD AND SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

State law reference—Foods and drugs, 22 M.R.S.A. § 2151 et seq.

Sec. 11-16. Definitions.

Words used in this article shall have their common meaning, except that the definitions set forth in chapter 15 or in this section shall apply unless the context clearly indicates that a different meaning is intended.

Adulterated shall mean the condition of a food if:

(1) It bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
(2) It bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one (1) has been established.

(3) It consists in whole or in part of any filthy, or decomposed animal or vegetable substance, or if it is otherwise unfit for human consumption;

(4) It has been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) It is in whole or in part the product of a diseased animal, or an animal which has died otherwise than by slaughter; or

(6) Its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

Approved shall mean acceptable to the health authority as meeting the requirements of this article and conforming to good public health practices. In interpreting the provisions of this article and defining and determining compliance with its requirements, the health authority shall be guided by the recommendations of the 1976 Edition of the United States Public Health Service Food Sanitation Service Manual, a copy of the manual is on file in the office of the city clerk.

Closed shall mean fitted together snugly leaving no openings large enough to permit the entrance of vermin.

Contaminated shall mean the presence of disease causing organisms or poisonous substance or other indication of the potential presence of disease-causing organisms on or in a surface, article or substance.

Corrosion-resistant material shall mean a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which may contact it.

Easily cleanable shall mean readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

Employee shall mean any person working in a food service establishment, including the proprietor or manager or any member of his or her family, who transports food of food containers, who engages in food preparation or service, or who comes in contact with any food utensils or equipment.

Equipment shall mean all fixtures, stoves, rang3es, hoods, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.
**Food** shall mean any raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

**Food contact surface** shall mean those surfaces of equipment and utensils with which food normally comes in contact and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

**Food processing establishment** shall mean a commercial establishment in which food is processed or otherwise prepared and packaged only for sale to food service establishments and other retail outlets.

**Food service establishment** shall mean any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; or any other establishment where food or drink is prepared, served, kept or stored for retail sale. This definition shall not include as food service establishments private homes with permanent guests.

**Handle** shall mean the actual collecting, keeping, storing, preparing, cooking, processing, dressing, freezing, distributing and transporting of food.

**Innholder** shall mean and include any person offering to the public, generally, lodgings and food as the occasion requires.

**Kitchenware** shall mean all multi-use utensils other than tableware or equipment used in the storage, preparation, conveying or serving of food.

**Misbranded** shall mean the presence of any written, printed or graphic matter upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable governmental labeling requirements, or the absence of a label indicating the contents of the packaged food.

**Mobile food service establishment** shall mean and include only a food service establishment which has all utilities and facilities contained within the unit other than a power source; which has no fixed location for the operation or transaction of business; and which is moved from one (1) privately-owned location to a different location under separate ownership not less frequently than once every four (4) hours in any twenty-four (24) hour period in order to serve persons otherwise present at such locations at such times.

**Perishable food** shall mean any food of such type or in such condition as may spoil.
Poisonous and toxic substance shall mean any mechanical agent, chemical substance or organism capable of causing poisoning or having an injurious or deadly effect when introduced into the human body by means of breathing, eating, or drinking or absorption or penetration through the skin or mucous membrane.

Potentially hazardous food shall mean any perishable food which consist in whole or in part of milk or milk products, eggs, whole or ground meat, poultry, fish, shellfish, edible crustacean or other ingredients including synthetic ingredients capable of supporting rapid and progressive growth on infection or toxigenic micro-organisms. The term does not include clean, whole, uncracked, or odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less.

Safe temperature as applied to potentially hazardous food shall mean a minimum temperature of forty-five (45) degrees Fahrenheit or below, and one hundred forty (140) degrees Fahrenheit or above (except that roast beef may be held for service at a temperature of not less than one hundred thirty (130) degrees Fahrenheit).

Sanitize shall mean effective bactericidal treatment of surfaces of equipment and utensils by a process which has been approved by the health authority as being effective in destroying micro-organisms, including pathogens.

Sealed shall mean free of cracks or other openings which permit the entry or passage of moisture.

Shellfish shall mean all fresh or frozen oysters, clams, or mussels, either shucked or in the shell, and any fresh or frozen edible products thereof.

Single service articles shall mean cups, containers, lids, or closures; plates, knives, forks, spoons, stirrers, paddles, straws, placemats, napkins, doilies, wrapping materials and all similar articles contacting food which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood plastic, synthetic, or other readily destructible materials, and which are intended for one (1) person, one (1) usage only, then to be discarded.

Tableware shall mean all multi-use eating and drinking utensils, including flatware (knives, forks and spoons).

Tavern shall mean and include any food service establishment where malt liquor is sold.

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time, not to exceed two (2) weeks, in connection with a fair, carnival, circus, public exhibition or similar transitory gathering.

Utensil shall mean any tableware and kitchenware used in the storage, preparation, conveying or serving of food.
Wholesome shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

(Code 1968, § 905.2; Ord. No. 231-80, 12-22-80; Ord. No. 362-82, 1-4-82; Ord. No. 698-82, 6-9-82)


Sec. 11-17. Application to food prepared outside city.

No person shall sell or bring into the city food prepared outside the city for sale by a food service establishment unless such food is prepared and handled in accordance with the requirements of this article. In determining whether such food is prepared or handled in accordance with the requirements of this article, the health authority may inspect the location at which such food is prepared or may accept reports from responsible authorities in such jurisdiction that such location complies with the provisions of this article.

(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)

Sec. 11-18. Right to enter.

The health authority shall be permitted to enter any food service establishment during business hours for the purpose of making inspections and of copying any and all records of food purchases and payrolls. It shall be the duty of every person responsible for the management or control of such establishment to afford free access to every part of such establishment and to render all aid and assistance necessary to enable the health authority to make a full, thorough and complete examination thereof to determine compliance with this article. Records of purchases of food shall be held for a period of three (3) months following the date of purchase either at the food service establishment or at another place where they are customarily kept and shall be made available to the health authority at the food service establishment within a reasonable time upon request.

(Code 1968, § 905.4; Ord. No. 231-80, 12-22-80)

Sec. 11-19. Physical conditions of premises.

(a) Flooring. The floor surfaces of kitchens and all other rooms and areas in which food is stored or prepared and in which utensils are washed, and in walk-in refrigerators, dressing or locker rooms, and toilet rooms, shall be of smooth, nonabsorbent materials, and so constructed as to be easily cleanable. Suitable materials may be concrete, terrazzo, ceramic tile, tightly laid tongue-and-groove lumber wood covered with a composition flooring or other suitable material as approved by the health authority. All floors shall be kept clean and in good repair. Floor drains shall be provided in all rooms where floors are subjected to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor. All areas where food is served shall be kept clean and dry and surfaces in such areas shall be finished so as to facilitate cleaning and minimize dust. All concrete, terrazzo, tile or ceramic floors hereafter installed in preparation, food storage, and utensil washing rooms,
walk-in refrigerators, dressing or locker rooms and toilet rooms shall provide a coved juncture between the floor and wall. In all cases, the juncture between the floor and wall shall be closed.

(b) Walls and ceiling. The walls and ceilings of all rooms shall be kept clean and in good repair. All walls of rooms or areas in which food is prepared, or utensils or hands are washed, shall be easily cleanable, smooth, and light-colored, and shall have washable surfaces up to the highest level reached by splash or spray. Brick, cement blocks, slag blocks and cinder blocks are acceptable if plastered or filled so as to provide a smooth, easily cleanable surface and if painted where necessary, a light color. Acoustical ceiling materials shall be acceptable where effective ventilation prevents the possibility of grease accumulation and absorption.

(c) Tables and shelves. All shelves, tables and counters of kitchens shall be smooth and easily cleanable, shall be kept clean, and shall not be covered with paper, oil cloth, or other similar material.

(Code 1968, § 905.5; Ord. No. 231-80, 12-22-80)

Sec. 11-20. Lighting.

At least twenty (20) footcandles of light shall be provided on all working surfaces in food preparation, utensil washing and handwashing areas. Sources of artificial light shall be provided and used to the extent necessary to provide the required amounts of light on these surfaces when in use and when being cleaned. At least ten (10) footcandles of light at a distance of thirty (30) inches from the floor shall be provided in all food storage areas, toilet rooms and dining areas during cleaning operations.

(Code 1968, § 905.6; Ord. No. 231-80, 12-22-80)

Sec. 11-21. Ventilation.

All rooms in which food is prepared or served or utensils are washed, dressing, or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well ventilated sufficient to prevent objectionable odors and vapors, condensation, and the accumulation of grease and smoke on walls, ceilings, or fixtures. Ventilation hoods or devices shall be designed to prevent grease or condensation from dripping into food or onto food contact surfaces. Filters shall be provided where deep fat frying, broiling or grilling operations are used and shall be readily removable for cleaning or replacement. Ventilation systems shall discharge in such manner as not to create a nuisance.

(Code 1968, § 905.7; Ord. no. 231-80, 12-22-80)

Sec. 11-22. Toilet Facilities.

(a) Facilities to be provided. Each food service establishment shall be equipped with adequate, conveniently located toilet facilities for its employees and patrons within the same building housing the establishment as provided hereinafter. Toilet and other fixtures shall be kept in a clean condition and in good repair. The doors of all toilet rooms shall be self-closing. Toilet tissue shall be provided. Easily cleanable
receptacles shall be provided for waste materials and such receptacles shall be covered. Toilet rooms shall be completely enclosed from floor to ceiling and shall be vented to the exterior.

(b) **Employee facilities.** Toilet facilities shall be provided for the employees of the food service establishment on the premises as follows:

<table>
<thead>
<tr>
<th>Number of Employees</th>
<th>Number of Toilets</th>
</tr>
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<tbody>
<tr>
<td>1-15</td>
<td>1</td>
</tr>
<tr>
<td>16-35</td>
<td>2</td>
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</tbody>
</table>

and thereafter at the rate of one (1) toilet for each additional thirty (30) persons employed. When eight (8) or more persons are employed at any one time, two (2) shall be provided. If both males and females are employed, at least one (1) such toilet shall be designated for the use of each sex.

(c) **Patron facilities.** At least two (2) toilets, one (1) designated for use by each sex, shall be provided for the use of patrons in any food service establishment which provides seating for twenty-five (25) or more persons at any one time for the purpose of consuming food or nonalcoholic drink on the premises, or whether or not seating is provided, which is licensed to dispense alcoholic beverages for consumption on the premises, or under chapter 3, article II, division 2, as a bottle club, or under chapter 4, article II, division 2, for more than four (4) amusement devices on the premises. Toilets provided for the use of employees shall be considered to be provided for the use of patrons also, unless patrons cannot gain access to such toilets without passing through any food preparation area. In computing seating capacity under this subsection, each twenty-four (24) inches of length of any bench shall be deemed to be one (1) seat.

(Code 1968, § 905.8; Ord. no. 231-80, 12-22-80; Ord. No. 355-81, 12-21-81)

Sec. 11-23. **Handwashing facilities.**

Handwashing sinks with hot and cold running water shall be provided in or convenient to toilet rooms and in no instance more than ten (10) feet outside the toilet room. Soap and sanitary towels or other approved drying facilities in suitable holders or dispensers shall be provided. Common towels are prohibited. No person shall resume work after using the toilet room without first washing his or her hands. If such handwashing sink is not located within ten (10) feet of the entrance to all food preparation rooms or areas, additional handwashing sinks with hot and cold running water, soap, and sanitary towels shall be provided in or within ten (10) feet of such food preparation rooms or areas. Durable, legible signs shall be posted conspicuously at each handwashing facility used by employees directing them to wash their hands before returning to work. Dishwashing vats, vegetable sinks and pot sinks shall not be approved as handwashing facilities for employees. Any self-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need
to reactivate the faucet. Steam mixing valves are prohibited. Spring type faucets which require two (2) hands to operate are prohibited.
(Code 1968, § 905.9; Ord. no. 231-80, 12-22-80)

Sec. 11-24.  Water.

(a) Food preparation. The water supply shall be adequate, of a safe sanitary quality and from the Portland Water District or a private water supply system which is constructed, protected and maintained in conformity with applicable state law. Hot and cold running water, under pressure, shall be provided in all areas where food is prepared, and where equipment, utensils or containers are washed.

(b) Drinking water. The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and back siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet and the fixture’s flood level rim does not exist. A hose shall not be attached to a faucet unless a backflow prevention device is installed.
(Code 1968, § 905.10; Ord. no. 231-80, 12-22-80)

Sec. 11-25.  Ice.

(a) Human consumption. Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils; except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

(b) Storage. Packaged food, including canned or bottled drink shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.
(Code 1968, § 905.11; Ord. no. 231-80, 12-22-80)

Sec. 11-26.  Disposal of wastes.

(a) Liquid waste. All sewage shall be disposed of in a public sewerage system or, in the absence thereof, in a sewage disposal system constructed and operated in conformity with applicable state and local laws, ordinances, and regulations. Plumbing shall be sized, installed and maintained so that it does not constitute a source of contamination of food, water supply, equipment or utensils, or create and unsanitary condition.

(b) Solid waste. All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids when filled or stored, or not in continuous use. Such containers need not be covered when stored in special vermin-proofed rooms, or enclosures, or in a food-waste refrigerator. All other rubbish shall be stored in
containers, rooms, or in an approved manner. The rooms, enclosures, areas and containers used shall be adequate for storage of all food waste and rubbish accumulating on the premises. Each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Liquid waste from cleaning operation shall be disposed of as sewage. Food-waste grinders, if used, shall be installed in compliance with state laws and this Code and shall be of suitable construction. All garbage and rubbish or other material shall be removed from the premises at frequent intervals which shall in no case exceed four (4) days and shall be so handled as to prevent the attraction to and/or breeding therein to insects, rodents and other animals.

(Code 1968, § 905.12; Ord. no. 231-80, 12-22-80)

Cross reference—Garbage, wastes and junk, Ch. 12; sewers, Ch. 24.

Sec. 11-27. Kitchen equipment.

(a) Design. All equipment and utensils shall be so designed and of such material and workmanship as to be smooth, easily cleanable and durable, and shall be in good repair; and the food contact surfaces of such equipment and utensils shall, in addition, be easily accessible for cleaning, nontoxic, corrosion-resistant, and relatively nonabsorbent. All equipment shall be so installed and maintained as to facilitate the cleaning thereof and of all adjacent areas. Single service articles shall be made from nontoxic materials. Equipment, utensils and single service articles shall not impart odors, color or taste, nor contribute to the contamination of food. Reuse of single service articles is prohibited. Mollusk and crustacean shells for food service is prohibited.

(b) Materials. Materials used as food contact surfaces of equipment and utensils shall, under use conditions, be corrosion-resistant, relatively nonabsorbent and nontoxic; provided that corrosion-resistant requirements shall not preclude the use of cast iron as a food contact surface material. Wood may be used for single service articles such as chop sticks, stirrers or ice-cream spoons. The use of wood as a food contact surface under other circumstances is prohibited except as permitted by subsection (c).

(c) Food contact surfaces. Food contact surfaces of equipment and utensils shall be free of difficult-to-clean internal corners and crevices. Threads which routinely contact food shall be of a sanitary design. And no V-type threads shall be used. Cutting blocks and boards, and bakers’ tables may be of hard maple or equivalent material which is nontoxic, smooth, and free of cracks, crevices and open seams. Cutting boards shall be easily removable.

(d) Noncontact surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash, food debris, or otherwise require frequent cleaning, shall be reasonably smooth, washable, free of unnecessary ledges, projections or crevices; readily accessible for cleaning; and of such material and in such repair as to be readily maintained in a clean and sanitary manner.

(e) Lubricants. Lubricated bearings and gears of equipment shall be so constructed that lubricants cannot get into the food or onto food contact surfaces.
(f) **Equipment installation:**

(1) Equipment which is placed on tables or counters, unless readily movable, shall be sealed thereto or mounted on legs or feet at least four (4) inches high.

(2) Floor-mounted equipment, unless readily movable, shall be sealed to the floor; or shall be installed on raised platforms of concrete or other smooth masonry in such a manner as to prevent liquids or debris from seeping or settling underneath, between, or behind such equipment in spaces which are not fully open for cleaning and inspection; or such equipment shall be elevated at least six (6) inches above the floor. The space between adjoining units, and between a unit and the adjacent wall, shall be closed unless exposed to seepage, in which event it shall be sealed, or sufficient space shall be provided to facilitate easy cleaning between, behind and beside all such equipment.

(3) Aisles or working spaces between equipment, and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food contact surfaces by clothing or through personal contact.

(g) **Equipment installed before April 1, 1968.** Major equipment installed prior to April 1, 1968, and which complied with the provisions of this Code on that date, may be continued in use, although not complying with the provisions of this article, so long as it is in good repair, is capable of being maintained in a sanitary condition and the food contact surfaces are nontoxic.

(h) **New Equipment.** Equipment installed in food service establishments after April 1, 1968, shall bear the National Sanitation Foundation Seal of Approval or be of design and construction substantially equivalent to the minimum standards of the National Sanitation Foundation.

(Code 1968, § 905.13; Ord. no. 231-80, 12-22-80)

**Sec. 11-28. Cleaning of premises.**

(a) **Methods.** All eating and drinking utensils shall be thoroughly cleaned and sanitized after each use. All kitchenware, and food contact surfaces of equipment, exclusive of cooking surfaces of equipment, and all food storage utensils shall be thoroughly cleaned after each use. Cooking surfaces of equipment shall be thoroughly cleaned at least once a day, or as often as necessary. All utensils and food contact surfaces of equipment used in the preparation, service, display or storage of potentially hazardous food shall be thoroughly clean and sanitized prior to such use. Nonfood contact surfaces or equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition. Moist cloths or sponges used for wiping food spills on kitchen ware, food contact surfaces of equipment or for cleaning nonfood contact surfaces such as counters, table tops and shelves shall be clean and rinsed frequently in one (1) of the
(b) *Solutions.* A manual cleaning and sanitizing process shall consist of thoroughly removing gross food particles by washing in a detergent solution of at least one hundred thirty (130) degrees Fahrenheit, rinsing free of such solution and sanitizing by an approved bactericidal process. Approved bactericidal processes for sanitizing shall include:

1. Immersion in hot water at a minimum temperature on one hundred seventy (170) degrees Fahrenheit for thirty (30) seconds in the final rinse section of manual dishwashers, with adequate baskets provided for dipping utensils.

2. All cleaning and sanitizing shall be done by an approved process. Adequate numerically scaled indicating thermometers accurate to within plus or minus two (2) degrees Fahrenheit shall be installed or readily available where water temperatures must be maintained. Sanitizing shall be by immersion in a solution at a minimum temperature of seventy-five (75) degrees Fahrenheit containing hypochlorite compounds of equal efficiency of two hundred (200) pounds per minute available concentration for no less than one (1) minute. At no time during the sanitizing process shall the concentration of the available chlorine be reduced below fifty (50) pounds per minute, and approved test for chlorine concentration level shall be available and utilized. Any other chemical sanitizing agent may be used which complies with the Food Service Sanitation Manual of the Food and Drug Administration, 1976 Edition, Appendix D, Section 178-1010 and amendments thereto on file in the office of the city clerk, or which has been demonstrated to the satisfaction of the health authority to be effective and nontoxic under use conditions, and for which a suitable test is available. The original container in which the chemical sanitizer was received from the distributor shall be kept available on the premises of the food service establishment while such sanitizer remains on the premises.

3. When chemicals are used for sanitization, they shall not have concentrations higher than the maximums permitted by this article.

4. A three (3) compartment sink shall be provided for such manual cleaning; each compartment shall be equipped with hot and cold running water and large enough to permit complete immersion of the largest utensil, except that a two (2) compartment sink may be used where a mechanical dishwasher is in use for the washing of all utensils except pots, pans and trays. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.
(5) All sinks shall be provided with drain boards on each side, each of which must be at least two (2) feet square, constructed of corrosion resistant material, and sloped to the sink to facilitate draining, or easily movable dish tables for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing. Stationary or mechanical glass washing brushes shall be required for manual dishwashing of glasses.

(c) Procedure. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

(1) Sinks shall be cleaned prior to use;

(2) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean;

(3) Equipment and utensils shall be free of detergents and abrasives with clean water in second compartment;

(4) Equipment and utensils shall be sanitized in the third compartment according to a method approved in the previous subsection. After cleaning and until use, all food contact surfaces of equipment and utensils shall be so stored and handled as to be protected against contamination. After equipment and utensils are sanitized, they shall be allowed to drain dry and then stored in a manner to prevent contamination. Utensils shall be stored so as to minimize handling of food contact surfaces.

(d) Mechanical dishwashing. Mechanical dishwashing shall be in approved equipment. The wash water shall be at least one hundred forty (140) degrees Fahrenheit and in a single tank conveyor machines shall be at least one hundred sixty (160) degrees Fahrenheit. When hot water is relied upon for sanitization, the final rinse water shall be at least one hundred eighty (180) degrees Fahrenheit at the entrance of the manifold. When a pump rinse is provided, the water shall be at least one hundred seventy (170) degrees Fahrenheit. When chemicals are relied upon for sanitization, they shall be of a type approved by the health authority, and shall be applied in such concentration and for such period of time as to provide effective bactericidal treatment of the equipment and utensils. Thermometers accurate to within plus or minus three (3) degrees Fahrenheit shall be installed so as to measure the temperature of the wash water and the final rinse water at the machine.

(e) Mechanical sanitization. Jet, nozzles and all other parts of each machine shall be maintained free of chemical deposits, debris and other soil. Automatic detergent dispenser, if used, shall be kept in proper operating condition. When an immersion type dishwashing machine is employed for equipment and utensil washing and sanitizing, applicable requirements pertaining to manual dishwashing shall be met.
Mechanical glass and dishwashing equipment shall be required when found necessary because of ineffective results with other facilities. Dishwashing and glass washing equipment shall be constructed and operated in accordance with National Sanitation Foundation standards.

When spray-type dishwashing machines are used, the flow pressure shall not be less than fifteen (15) or more than twenty-five (25) pounds per square inch on the water line at the machine and not less than ten (10) pounds per square inch at the rinse nozzles. A suitable gauge cock shall be provided immediately upstream from the final rinse sprays to permit checking of the flow pressure of the final rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles.

(f) **Machines for sanitization.** Machines using chemicals for sanitation may be used, provided that:

1. The temperature of the wash water shall not be less than one hundred twenty (120) degrees Fahrenheit;
2. The wash water shall be kept clean;
3. Chemicals added for sanitization purposes shall be automatically dispensed;
4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with this article and the manufacturers’ specifications for time and concentration;
5. The chemical sanitizing rinse water temperature shall not be less than seventy-five (75) degrees Fahrenheit nor less than the manufacturers’ specifications;
6. Chemical sanitizers used shall meet the requirements of subsection (b) above;
7. A test kit that accurately measures the chemical concentration of the solution shall be available and used.

(g) **Premises lacking sufficient cleaning facilities.** Food service establishments which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single service articles. All single service articles shall be stored, handled and dispensed in a sanitary manner and shall be used only once. Single service utensils shall be stored in a clean, dry place in the original carton or in a suitable dispenser designed for this particular purpose at all times prior to use. Straws for drinking liquids shall be individually wrapped or dispensed from a sanitary dispenser in such manner that the possibility of contamination is minimized.

(Code 1968, § 905.14; Ord. No. 231-80, 12-22-80)
Sec. 11-29. Storage of equipment.

The storage of food equipment, utensils or single service articles in toilet rooms or vestibules is prohibited. Equipment, utensils and single service items shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is pre-wrapped, holders for knives, forks and spoons at self-service locations shall protect these articles from contamination and present the handle to the consumer. Convenient and suitable utensils such as forks, knives, tongs spoons or scoops shall be provided and used to minimize manual handling of food. Scoops, paddles or dippers used to dispense ice cream shall be immersed in a running water dipper well or washed and sanitized after each use. The dipper well or washing facility shall be within ten (10) feet of the place where the ice cream is dispensed.

(Code 1968, § 905.15; Ord. No. 231-80, 12-22-80)

Sec. 11-30. Storage of food.

(a) General provisions.

1) All food in food service establishments shall be from sources complying with all applicable federal, state and local laws and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding, and safe for human consumption. No hermetically sealed, nonacid and low acid food, such as canned vegetable which has been processed in a place other than a commercial food processing establishment shall be used.

2) All food while being stored, prepared, displayed, served or sold at food service establishments or during transportation between such establishments, shall be protected from contamination in a manner consistent with the hazards present in the environment. All perishable food shall be stored so as to protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures (forty-five (45) degrees Fahrenheit or below, or one hundred forty (140) degrees Fahrenheit or above) except during necessary periods of preparation and service. Adequate numerically scaled indicating thermometers, accurate to within plus or minus two (2) degrees Fahrenheit, shall be installed in each refrigerated storage unit and shall be located in the warmest part of the unit in which temperatures must be maintained.

3) Food, whether raw or prepared, if removed from the original container, shall be stored in a clean, covered nonabsorbent container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent except that linens or napkins may be used for lining or covering bread or roll containers. No food product shall be stored beneath hung meat.
(4) Stored food shall be stored on platforms at least eight (8) inches above the floor level so as to prevent contamination and allow for adequate cleaning, except that food in waterproof, rodentproof packaging or containers need not be elevated.

(5) All potentially hazardous food transported from a food service establishment to another location for service or catering operation shall be kept at or below forty-five (45) degrees Fahrenheit or at or above one hundred forty (140) degrees Fahrenheit during transportation. During such transportation, all food shall be in covered containers or completely wrapped or packaged so as to be protected from any potential contamination.

(b) Shellfish. All oysters, clams and mussels shall be from sources approved by the state department having jurisdiction over shell fisheries, provided that if the source is outside the state, it shall be certified by the state of origin. Shell-stock shall be identified with an official tag giving the name and certificate number of the original shell-stock shipper and the kind and quantity of shell-stock. Fresh and frozen shucked oysters, clams and mussels shall be packed and kept until used in nonreturnable containers identified with the name and address of the packer, repacker or distributor, and the certificate number of the packer or repacker preceded by the abbreviated name of the state.

(c) Dairy products:

(1) All milk and milk products, including fluid milk, other fluid dairy products and manufactured milk products, shall meet the standards of quality established for such products by applicable state and local laws and regulations.

(2) Only pasteurized fluid milk and liquid milk products shall be used or served. Dry milk and milk products may be reconstituted in the establishment if used for cooking purposes only, or in institutions where dietary reasons require its use.

(3) Milk and fluid milk products for drinking purposes shall be purchased and served in the original, individual containers in which they were packaged in the milk plant or shall be served from an approved bulk milk dispenser, provided that cream, whipped cream, or half and half, which is to be consumed on the premises may be served from the original container of not more than one-half gallon capacity or from a dispenser approved by the health authority for such service. For mixed drinks, requiring less than a half pint of milk, milk may be poured from one-quart or one-half gallon containers packaged at a milk plant.

(4) All prepackaged foods prepared off the premises for sale in a food service establishment such as sandwiches and containers of food such as shell fish, meat dishes and salads, shall be packaged in approved containers clearly labeled with the name of the product and the name and address of the establishment where the product was prepared, processed or manufactured.
(5) All frozen desserts such as ice cream, soft frozen desserts, ice milk, sherbet, and mix shall meet the standards of quality established for such products by applicable state and local laws and regulations.

(d) Meat products. All meat and meat products shall have been inspected for wholesomeness under an official regulatory program, provide that the health authority may accept inspection reports of other governmental agencies which are in his or her opinion satisfactory.

(e) Poultry products. All poultry and poultry meat products shall have been inspected for wholesomeness under an official regulatory program, provided that the health authority may accept inspection reports of other governmental agencies which are in his or her opinion satisfactory.

(f) Bakery products. All bakery products shall have been prepared in the food service establishment or in a food processing establishment, provided, that the health authority may accept reports of other governmental agencies which are in his or her opinion satisfactory and which are in compliance with applicable state and local laws and regulations. All cream-filled and custard-filled pastries shall have been prepared and handled in accordance with the requirements of this article relating to dairy products.

(g) Frozen foods. Frozen food shall be kept at such temperature as to remain frozen except when being thawed for preparation or use. Frozen food shall be thawed at refrigerator temperatures of forty-five (45) degrees Fahrenheit or below, or as part of the cooking process, or under potable running water at a temperature of seventy (70) degrees Fahrenheit or below with sufficient water velocity to agitate and float off loose food particles into the overflow, or in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven, or by any other method satisfactory to the health authority.

(h) Reconstituted nondairy products. Nondairy creaming, whitening or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one (1) gallon in capacity and cooled to forty-five (45) degrees Fahrenheit or below within four (4) hours after preparation.

(i) Power failures, etc. In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the licensee shall immediately contact the health authority. Upon receiving notice of this occurrence, the health authority shall take whatever action is deemed necessary to protect the public health, including but not limited to reporting this situation to the city clerk with a recommendation as to suspension or revocation of the license.

(Code 1968, § 905.16; Ord. No. 231-80, 12-22-80)
Sec. 11-31. Handling of food.

(a) General provision. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized.

(b) Cooking:

(1) Stuffing, poultry and stuffed meats and poultry shall be heated throughout to minimum temperature of one hundred sixty-five (165) degrees Fahrenheit with no interruption of initial cooking process. All pork or pork products shall be heated to an internal temperature of one hundred fifty (150) degrees Fahrenheit unless the pork or pork products have been subjected to a prior treatment at the time of manufacture or by a subsequent heating, drying, freezing or other treatment as to render it free from trichinae organisms. Roast beef shall be cooked to an internal temperature of at least one hundred thirty (130) degrees Fahrenheit and beef steak shall be cooked to an internal temperature of at least one hundred thirty (130) degrees Fahrenheit unless otherwise ordered by the immediate consumer.

(2) Hot prepared foods intended to be cooled from the temperature range of above one hundred forty (140) degrees Fahrenheit to below forty-five (45) degrees Fahrenheit shall be cooled within a period not to exceed two (20) hours by utilizing shallow pans, agitation, quick chilling or water circulation external to the food container.

(3) Following preparation, hollandaise and other sauces which, pending service, must be held in the temperature range of forty-five (45) degrees Fahrenheit to one hundred forty (140) degrees Fahrenheit, may be exempt from the temperature requirements above if they are prepared from fresh ingredients and are discarded as waste within two (2) hours after preparation. Where such sauces require eggs as an ingredient, only shell eggs shall be used.

(4) Foods determined by the health authority to be potentially hazardous foods which have been cooked and then refrigerated, shall be reheated rapidly to one hundred sixty-five (165) degrees Fahrenheit or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bainmaries, warmers, and similar hot food facilities shall not be used for the rapid reheating of potentially hazardous foods.

(c) Washing of fruit and vegetables. Raw fruit and vegetables shall be washed before use.

(d) Service of food. Where unwrapped food is placed on display in all types of food service operations, including smorgasbords, buffets and cafeterias, it shall be protected against contamination from customers and other sources by effective, easily
cleanable, counter protector devices, cabinets, display cases, containers or other similar types of protective equipment. Self-service openings in counter guards shall be so designed and arranged as to protect food against contamination by coughing and sneezing. When food is served buffet or smorgasbord style:

1. Potentially hazardous food shall be discarded hourly;
2. Management shall not permit customers to handle food on display;
3. Long handled serving spoons and trays shall be provided and used;
4. In the case of “drive-in” restaurants, all food shall be covered or wrapped before delivery to patrons to exclude flies, dust, and other contamination.
5. Family dining table type of service shall not be prohibited;
6. All potentially hazardous food when placed on display for service should be kept hot or cold as required hereafter:

   a. If served hot, the temperature of such food shall be kept at one hundred forty (140) degrees Fahrenheit or above except that roast beef shall be held for service at a temperature of at least one hundred thirty (130) degrees Fahrenheit;

   b. If served cold, such food shall be:

      1. Displayed in or on a refrigerated facility which can reduce or maintain the product temperature of forty-five (45) degrees Fahrenheit or below;

      2. Prechilled to a temperature of forty-five (45) degrees Fahrenheit or below and when placed on display for service, the interior food temperature shall at no time during the display period be higher than fifty (50) degrees Fahrenheit.

   c. Individual portions of food once served to a customer shall not be served again except that wrapped food, other than potentially hazardous food, which is still wholesome and has not been unwrapped may be reserved;

   d. Sugar, salt, spices, mustard and ketchup shall be served only in covered dispensers, or in containers that shall be designed so that a spoon cannot be inserted for dispensing of these materials;
e. Poisonous and toxic materials shall be identified and shall be used and
stored only in such manner and under such conditions as will not
contaminate food or constitute a hazard to employees or customers. Such
substances shall not be stored in any room where food or drink is stored,
served or prepared, except in a separate cabinet not used for any food
purposes. Poisonous insecticides shall be colored other than white. No
polish or other substances containing any poisonous material shall be used
for the cleaning or polishing of equipment or kitchenware.

(e) Enforcement. Food may be examined or sampled by the health authority as
often as may be necessary to determine compliance with this article. The health authority
may place a hold order on any food which he or she determines or has probable cause to
believe to be unwholesome, adulterated or misbranded. Food under such hold order may
be suitably stored and it shall be unlawful for any person to remove or alter a hold order,
notice or tag, and neither such food nor the containers thereof shall be relabeled,
repacked, reprocessed, altered, disposed of or destroyed without permission of the health
authority. After prompt and suitable investigation, the health authority may withdraw the
hold order, or may direct that such food be brought into compliance with the provisions
off this article or be destroyed.
(Code 1968, § 905.17; Ord. No. 231-80, 12-22-80)

Sec. 11-32. Employees.

(a) Clothing. All employees shall wear clean outer garments, maintain a high
degree of personal cleanliness and conform to hygienic practices while on duty. They
shall wash their hands thoroughly in an approved handwashing facility before starting
work, after smoking, eating or drinking, and as often as may be necessary to remove soil
and contamination. No employee shall resume work after visiting the toilet room without
first washing his or her hands. Employees shall not use tobacco in any form except in
areas designated for such purpose by the health authority. All employees who handle or
serve unwrapped or uncovered food shall at all such times wear suitable head covering
such as caps.

(b) Consumption of food. Employees shall consume food only in designated
dining areas which will not contaminate other food, equipment, utensils or other items
need protection.

(c) Disease:

(1) No person while infected with any disease in a communicable form or
while a carrier of such disease, or while afflicted with boils, infected wounds,
sores or any acute respiratory infections, shall work in any area of food service
establishment in any capacity in which there is a likelihood of such person
contaminating food or food contact surfaces with pathogenic organisms, or
transmitting disease to other individuals; and not person known or suspected of
being infected with any such disease or condition shall be employed in such an
area or capacity. Every person employed in a food service establishment shall annually, and within ten (10) days after initial employment, present evidence to the manager or person in charge of the establishment of a negative chest x-ray or tuberculin test for tuberculosis. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease any, he or she shall notify the health authority immediately.

(2) When the health authority has reasonable cause to suspect possibility of disease transmission from any food service establishment employee or when he or she has received notification from the manager or person in charge as above provided, he or she may take any or all of the following actions:

a. The immediate exclusion of the employee from all food service establishments;

b. The immediate closure of the food service establishment concerned;

c. Restriction of the employees service to some area of the establishment where there would be no danger of transmitting disease;

d. Adequate medical and laboratory examination of the employee, of other employees, and of his or her and their body discharges.

(d) Storage of clothing. Facilities shall be provided for the orderly storage of employee’s clothing and personal belongings. Where employees routinely change clothing within the establishment, one (1) or more dressing rooms or designated areas shall be provided for this purpose. Such designated areas shall be located outside of the food preparation, serving areas, and the utensil washing areas. Dressing rooms and storage facilities shall be kept clean.

(Code 1968, § 905.18; Ord. No. 231-80, 12-22-80)

Sec. 11-33. Operation of premises.

(a) Housekeeping. All parts of the establishment and its premises shall be kept clean and free of litter and rubbish. Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food contact surfaces. None of the operations connected with a food service establishment shall be conducted in any room used as living or sleeping quarters. Soiled linens, coats and aprons shall be kept in suitable containers until removed for laundering. No live birds or animals shall be allowed in an area used in the conduct of food service establishment operations, except guide dogs accompanying blind persons and patrol dogs accompanying security or police officers, may be permitted in dining areas. This exclusion does not apply to edible fish, crustacean, shellfish or to fish in aquaria. Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.
(b) **Presence of nonemployees.** Persons other than the employees of the establishment and persons employed by the establishment who are not reasonably necessary for the preparation of food or washing of utensils shall not pass through nor remain in the food preparation areas.

(c) **Cleaning implements.** Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that they do not contaminate food, utensils, equipment or linens, and shall be stored in an orderly manner.

(d) **Times for cleaning.** Cleaning of floors and walls, except emergency cleaning, shall be done during periods when the least amount of food is exposed, such as between meals or after closing. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust arresting sweeping compounds with brooms.

(e) **Sinks required.** One (1) utility sink, or curbed cleaning facility with a floor drain, shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mopwater or similar liquid wastes. The use of hand-wash, utensil washing or food preparation sinks for this purpose is prohibited.

(f) **Fixtures.** Shielding to protect against broken glass falling into food shall be provided for all artificial lighting fixtures located over, by, or within food storage preparation service and display facilities, and facilities where utensils are cleaned and stored. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(g) **Vermin control.** Effective measures shall be taken to protect against the entrance into the food service establishment and the breeding or presence on the premises of vermin. All openings to the outer air shall be effectively protected against the entrance of flies and other flying insects by self-closing doors, closed windows, screening, controlled air currents, or other effective means from May first through November first of each year. All openings to the outside shall be effectively protected against the entrance of rodents.

(h) **Facilities for cleaning.** Facilities for cleaning shall be provided in accordance with section 11-28.

(Code 1968, § 905.19; Ord. No. 231-80, 12-22-80)

**Sec. 11-34. Temporary food service establishments.**

(a) **Requirements.** A temporary food service establishment shall comply with all of the provisions of this article; except that when, in the opinion of the health authority immediate hazard to the public health will result. Temporary food service establishments which do not fully meet the requirements of this article may be permitted to operate when
food preparation and service are restricted in the following manner or other such manner as may be prescribed by the health authority:

(1) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters and those that only require a seasoning and cooking shall be served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products and sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply to any potentially hazardous food that: has been prepared and packaged under conditions meeting the requirements of this article; is obtained in individual servings; is held at forty-five (45) degrees Fahrenheit or below, or at a temperature of one hundred forty (140) degrees Fahrenheit or above, in facilities meeting the requirements of this article; and is served directly in the unopened container in which it was packaged.

(2) Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of this article. The ice shall be obtained only in chipped, crushed or cubed form and in single-use, safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

(3) Equipment shall be located and installed in a way that prevents food contamination and that facilitates cleaning the establishment.

(4) Food contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.

(5) When necessary, enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment and for hand-washing. A heating facility capable of producing enough hot water for these purposes shall be provided on the premises.

(6) Storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

(7) All sewage, including liquid wash, shall be disposed of according to applicable sections of this article and governmental plumbing requirements.

(8) When necessary, a convenient handwashing facility shall be available for employee handwashing. The facility must comply with section 11-23.

(9) Floors shall be constructed of concrete, asphalt, tight wood, or other similar easily cleaned material kept in good repair. Dirt or gravel, when graded to drain, may be used as subflooring when covered with clean, removable platforms
or duckboards, or covered with wood chips, shavings or other suitable materials effectively treated to control dust.

(10) Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents entry of vermin. Doors to food preparation areas shall be solid or screened and shall be self-closing. Screening materials where used, shall be at least sixteen (16) mesh to the inch.

(11) Counter service openings shall not be larger than necessary for the particular operation conducted. These openings shall be provided with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict entry by flying insects. Counter service openings shall be closed except when in actual use.

(b) Single service items required. Temporary establishments without effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

(Code 1968, § 905.20; Ord. No. 231-80, 12-22-80)

Sec. 11-35. Mobile food service establishments.

(a) Base station required. All mobile food service units shall be operated from a permanent base station which shall be considered part of the food service establishment for the purpose of determining compliance with this article. The mobile unit and base station shall comply with all of the requirements of this article except those relating to toilet facilities, and the additional requirements herein set forth except at herein prescribed.

(b) Standards for base station. The base station shall be separated into three (3) areas: (i) mobile unit loading and cleaning area; (ii) food storage and preparation area; (iii) mobile unit cleaning area. The loading and cleaning area shall be completely enclosed and of sufficient size to completely house a mobile unit while loading, unloading and cleaning, and shall have a sanitary waste water drain to an approved sewage disposal system. The loading area and the food storage and preparation area shall be constructed in accordance with all applicable requirements of this article as previously set forth. A cleaning area shall be provided separately for the flushing and drainage of liquid wastes and for the cleaning of the mobile unit itself and shall comply with the following:

(1) All liquid waste generated from the mobile unit retention tank of from the cleaning process of the mobile unit itself must be discharged to a sufficient sanitary sewer in accordance with this article and with applicable plumbing codes.
(2) Mobile units shall report at least daily to such cleaning location for cleaning.

(3) The floor, walls and ceiling of the cleaning area shall be constructed in accordance with provisions of this article.

(4) The water supply used in the cleaning operations shall be as provided by section 11-24.

(c) **Driver’s compartment.** In mobile units having a driver’s compartment, the compartment shall be separated from all food preparation, service or storage areas by a complete partition or adequate screening. No food, food containers or utensils shall be kept in the driver’s compartment.

(d) **Water supply.** A mobile unit shall be equipped with a storage tank containing a sufficient supply of fresh potable water and have a sufficient capacity of not less than twenty (20) gallons. Facilities for heating water shall be sufficient to supply at least ten (10) gallons of hot running water at a temperature of at least one hundred thirty (130) degrees Fahrenheit to furnish, when applicable, enough hot and cold running water for food preparation, utensil cleaning and sanitizing, and hand-washing in accordance with the provisions of this article. The water inlet shall be so located that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with applicable sections of this article and governmental plumbing requirements when applicable.

(e) **Water disposal.** Mobile units shall have a liquid waste collection tank capacity equal to the total capacity of potable hot and cold water storage tanks. Liquid waste shall not be discharged from the collection tank when the mobile unit is in motion. All connections on the vehicle for servicing the mobile unit’s waste disposal facilities shall be of different sizes or types from those used for supplying potable water to the mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the daily servicing operation.

(f) **Exemption.** Mobile units handling only prewrapped or prepackaged food and drink dispensed from covered urns or other protected equipment and which do not require handling by the mobile unit service operator need not comply with the provisions of this section pertaining to a water supply, liquid waste disposal, and the cleaning and sanitizing of equipment and utensils if the required equipment for cleaning and sanitizing exists at the base station.

(g) **Rubbish containers required.** A sufficient number of covered, metal rubbish containers shall be provided at each site immediately adjacent to the mobile unit for discards by the consumer. In no case shall such containers be more than ten (10) feet from the unit. Vendors shall keep sidewalks, roadways and other public or private space
adjoining and adjacent to their locations clean and free from paper and refuse of any kind generated from the operation of their business.

(h) *Utensils.* The following utensils may be utilized for food dispensing on mobile units:

(1) Tongs or similar devices used solely for dispensing nonpotentially hazardous food items; and

(2) Single service items.

(i) *Single service items.* Mobile food units shall provide only single service articles for use by the consumer.

(Code 1968, § 905.21; Ord. No. 231-80, 12-22-80)

**Sec. 11-36. Fixed equipment.**

When a food service establishment is constructed after April 1, 1968, or extensively remodeled, or when an existing structure is converted for use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or alteration which show the layout, arrangement and construction materials of work areas, and location, size and type of fixed equipment and facilities shall be submitted to the health authority for review before such work is begun.

(Code 1968, § 905.22; Ord. No. 231-80, 12-22-80)

**Secs. 11-37 – 11-45. Reserved.**

**DIVISION 2. LICENSE**

**Sec. 11-46. Required.**

No person shall operate any food service establishment within the city unless licensed to do so by the city.

(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)

**Sec. 11-47. Hearing.**

A hearing shall be held upon any original and any renewal application for a license required by this division.

(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)

**Sec. 11-48. Suspensions and revocations.**

licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health authority certifies to the clerk that he or she has
reinspected the premises and the condition for which the suspension was imposed has been corrected.
(Code 1968, § 905.3; Ord. No. 231-80, 12-22-80)

Sec. 11-49. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.
(Code 1968, § 905.23; Ord. No. 231-80, 12-22-80)

*Cross reference—Licenses and permits generally, Ch. 15.
ARTICLE I. IN GENERAL

Sec. 12-16. Definitions.

The following words and terms as used in this article shall have the meanings ascribed thereto, unless the context otherwise indicates:

**Authorized collector** shall mean employees or contractors of the public works authority or a private collector employed by the owner, occupant, agent or other person having custody of a building.

**Building** shall mean any structure or vessel, whether public or private, that is adapted to or used: for dwelling occupancy; for the transaction of business; for the rendering of professional services; amusement; the display, or sale or storage of goods, waste, merchandise articles or equipment; for the performance of work or labor; for office buildings, stores, theatres, markets, restaurants, warehouses, grain processing factories, abattoirs, worship, garages, bakeries; or structures where domestic or other animals or fowl are kept; for sheds, barns, outbuildings, or other structures or premises used as accessory to any such use.
Bulky waste shall mean any items whose large size or weight precludes or complicates their handling by normal collection, processing or disposal methods.

Garbage shall mean food or other putrescible wastes.

Occupant shall mean the person that has the use of or occupancy of any building or a portion thereof, whether the actual owner or tenant. In the case of vacant buildings or any vacant portion of a building, the owner, agent or other person having the custody of the building shall have the responsibility of an occupant of the building or portion thereof.

Owner shall mean the actual owner of the building, whether individual, partnership or corporation, or the agent of the building, or other person having custody of the building or to whom the rent is paid.

Solid waste shall mean useless, unwanted, discarded, nonfood and nonputrescible waste with insufficient liquid content to be free flowing.

Suitable containers shall mean (plastic or metal,) water-tight containers, covered by a tight fitting metal cover which is free from sharp edges. The maximum capacity of any container which must be dumped manually shall not exceed thirty (30) gallons and the combined weight of such a manually dumped container and contents shall not exceed seventy-five (75) pounds. Plastic liners, as used in metal solid waste containers for storage, when of suitable durability and strength and when tied securely, may be set out and accepted for collection only.

Vermin shall mean any noxious offensive animals which shall include but not be limited to insect larvae, flies, bedbugs, roaches, fleas, lice, ants wasps, beetles, mites, mice, rats, bats, pigeons, starlings and other nuisance birds.

(Code 1968, § 305.1; Ord. No. 155-76, 4-21-76)


Sec. 12-17. Containers furnished by occupant.

It shall be the duty of every tenant, lessee or occupant of every dwelling occupied by not more than two (2) families to provide and keep within the building or upon the lot where the building is situated suitable and sufficient containers to receive the accumulation of garbage and solid waste matter on the premises during the interval between collections.

(Code 1968, § 305.2; Ord. No. 155-76, 4-21-76)

Sec. 12-18. Containers furnished by owner.

It shall be the duty of the owner or agent of every flat or apartment house occupied or intended to be occupied by more than two (2) families to provide and keep within the building or upon the lot where the building is situated suitable and sufficient
containers to receive the accumulation of garbage and solid waste matter on the premises during the interval between collections.
(Code 1968, § 305.3; Ord. No. 155-76, 4-21-76)

Sec. 12-19. Containers to be furnished by occupants of commercial buildings.

It shall be the duty of the occupant of a hotel, restaurant, boarding house, public warehouse, market, bakery, grocery store, fruit stand or other buildings not referred to in sections 12-17 and 12-18 to provide and keep within the building or upon the lot where the building is situated suitable and sufficient containers to receive the accumulation of garbage and solid waste matter on the premises during the interval between collections.
(Code 1968, § 305.4; Ord. No. 155-76, 4-21-76)

Sec. 12-20. Waste not to accumulate except in suitable storage containers.

The occupants of all buildings shall place or cause to be placed all garbage and solid substances in the suitable containers so provided and shall not permit any accumulation or deposit of such substances in or about the premises except in such suitable containers.
(Code 1968, § 305.5; Ord. No. 155-76, 4-21-76)

Sec. 12-21. Storage responsibility for commercial buildings.

Any person owning, operating or being in charge of any public warehouse, market, grocery store, fruit stand, restaurant, kitchen, dining room, bakery, hotel, boarding house, or other building cited in section 12-19 shall require that garbage and solid waste matter be stored in suitable containers.
(Code 1968, § 305.6; Ord. No. 155-76, 4-21-76)

Sec. 12-22. Containers to be kept clean.

All containers used for storage or disposal of garbage and solid waste shall be kept clean.
(Code 1968, § 305.7; Ord. No. 155-76, 4-21-76)

Sec. 12-23. Collection responsibility.

(a) Solid waste and garbage will be collected by the town from all residences and apartments in the town.

(b) Solid waste and garbage shall not be collected by the town from any commercial or business activity or building.
(Code 1968, §§ 305.8, 305.9; Ord. No. 155-76, 4-21-76; Ord. No. 63-78, §§ 2, 3, 2-6-78)
Sec. 12-24. Placement for collection; scavenging prohibited.

(a) Municipal collection. Suitable containers for collection shall be placed at the curb or on the esplanade between the sidewalk and the gutter not prior to 6:00 p.m. of the day before scheduled municipal collection. Containers placed in the public way on and after such time shall be considered as being intended for collection and, as such, shall be collected by none other than the authorized collector of the public works authority. All containers shall be removed prior to 8:00 p.m. on the day of scheduled collection. Such suitable containers shall be covered or securely tied as to prevent spillage, wind blown littering, or the ingress or egress of flies, rats or other vermin. No person except the occupant, owner of the premises, or the public works authority shall remove, take or otherwise disturb the waste matter, or any portion thereof so placed for removal.

(b) Nonmunicipal collection. The occupants or owners of every building shall place such suitable containers in a place convenient for the removal of the contents by the persons authorized to collect the same. Such occupants or owners shall place such containers only on or directly in front of the premises occupied or owned by them. No other person except the occupants, the owner of the premises, or an authorized collector shall remove, take or otherwise disturb the waste matter, or any portion thereof so placed for removal.

(Code 1968, §§ 305.10-305.12; Ord. No. 155-76, 4-21-76; Ord. No. 63-78, § 4, 2-6-78; Ord. No. 358-79, 12-3-79)

Sec. 12-25. Containers not to be mutilated.

No person shall willfully remove, destroy, mutilate or utilize for another purpose, other than the holding of garbage, ashes or solid waste matter, suitable containers which have been provided in accordance with the provisions of this article.

(Code 1968, § 305.13; Ord. No. 155-76, 4-21-76)

Sec. 12-26. Disposal of unsafe containers and containers in poor condition.

If a refuse container is found to be unsafe to handle or in poor condition, it shall be marked by the public works authority with a sticker or tag. If such a container is placed out for collection again in the same condition, it shall be considered as being intended for collection and shall be picked up and disposed of by the public works authority.

(Code 1968, § 305.14; Ord. No. 155-76, 4-21-76)

Sec. 12-26.5 Placement of certain wastes prohibited.

No person shall place any of the following wastes on the street for municipal collection:

(1) Hazardous waste: All hazardous waste as defined by federal and state regulatory agencies;
(2) Hospital waste: All contaminated hospital waste as defined by federal and state laws, i.e., “red bag” pathological anatomical waste:

(3) Infectious waste: Wastes which are hazardous by reason of their contamination with infectious materials, i.e., “red bag” waste body parts, pathology lab waste, etc.;

(4) Human and animal fecal waste;

(5) Flammable liquids;

(6) Powder and liquid pesticides, herbicides and fungicides;

(7) Paint waste and pigments;

(8) Demolition debris;

(9) Electrical capacitors: contain oils that may contain P.C.B.’s;

(10) Construction debris;

(11) Laboratory chemicals;

(12) Biohazard materials;

(13) Plated metal parts;

(14) Electrical transformers or parts.
(Ord. No. 249-88, 11-28-88)

Sec. 12-27. Waste not to be thrown in public places; misuse of litter baskets.

No person shall throw or deposit any garbage or waste matter, or cause the same to be thrown or deposited upon any street, alley, gutter, park, or other public way, or throw or deposit the same in or upon any premises or vacant lot or in any water, or to store or keep the same except in suitable containers as required by this article or in litter baskets as supplied by the town. Where the town has supplied litter baskets, no person shall use the litter baskets for the disposal of large volumes of household or commercial garbage or other waste matter.
(Code 1968, § 305.15; Ord. No. 155-76, 4-21-76)
Sec. 12-27.5 Unauthorized waste and other materials not to be left at transfer station.

(a) Except for household trash, no person shall throw, deposit, or leave any garbage or waste matter, furniture, building debris, appliances, or other material of any type without prior approval of transfer station attendant.

(b) No person shall leave or deposit any garbage or waste matter outside the transfer station gate, other than in the receptacles left for that purpose. For purposes of this section, the definition of the words “in the receptacles” does not include “near, around, next to, on, or any other place but inside the container. If containers are all filled do not leave the trash at the transfer station, but notify transfer station attendant of this situation.

(c) Penalty for violation of Sec. 12-27.5 will be not less than $50.00 nor exceed $500.00 as prescribed by Sec. 1-15.

Sec. 12-28. Collection vehicles to be covered.

No person shall transport any garbage or putrescible waste over any public way, street or place within the limits of the town except in property constructed, water-tight vehicles or in suitable containers. Vehicles and containers used to transport solid waste shall be so constructed as to prevent the spillage of such solid waste. Such vehicles and containers shall be covered except during the act of filling or emptying them and shall not be permitted to become four or offensive.

(Code 1968, § 305.16; Ord. No. 155-76, 4-21-76)

Sec. 12-29. Refusal to collect.

The public works authority may refuse to accept for collection any waste material which has been placed for collection in a manner which does not comply with the requirements of this article, which is prohibited hereunder or which is too large to fit into suitable containers or which is over the length, width, weight or bulk requirements set forth in this article.

(Code 1968, § 305.17; Ord. No. 155-76, 4-21-76; Ord. No. 309-89, § 2, 1-30-89)

Sec. 12-30. Reserved.

Sec. 12-31. Conflict with other laws.

Whenever there shall appear in any chapter of this Code provisions which conflict with the provisions of this article, such other provisions shall control, except that wherever this article imposes greater restrictions, then such restrictions shall control.

(Code 1968, § 305.19; Ord. No. 155-76, 4-21-76)
Sec. 12-32. Enforcement.

It shall be the duty of the Constable or the C.E.O. or their duly authorized representatives to cause the enforcement of the provisions of this article and to prosecute any and all persons violating any of such provisions. The owner of, and any person having responsibility for, property abutting the area of the street or sidewalk where waste material has been deposited shall be presumed to have deposited same and shall be liable for violations of this article in the absence of evidence to the contrary. Notwithstanding the aforesaid, any owner of and/or any person having responsibility for property abutting the area of the street where any garbage or waste material has been deposited in violation of this article shall cause it to be removed within twenty-four (24) hours of the issuance of an order of removal, either orally or in writing, issued by the constable or the C.E.O. or their duly authorized representatives. Failure to remove such waste within the time specified shall be a violation of the article.

(Code 1968, § 305.120; Ord. No. 155-76, 4-21-76; Ord. No. 249088; Ord. No. 308-89, § 1, 1-30-89; Ord. No. 40-91, 7-1-91)

Sec. 12-32.5. Collection fee.

After the issuance of three (3) orders of removal given under section 12-32 in any twelve-month period, the fee or charge for collecting waste material remaining on the street after the expiration of the period of time for compliance with the order shall be fifty dollars ($50.00) for up to one (1) cubic yard of waste, or in the event the waste deposited exceeds one (1) cubic yard, the fee shall be fifty dollars ($50.00) plus the cubic yard cost to collect and dispose of the waste at an approved facility. Such fees shall be charged each time that the town removes the waste material deposited in violation of this article from the streets or sidewalks abutting the property, whether additional notice has been given or not.

Charges assessed pursuant to this article shall be enforceable by lien for the benefit of the town pursuant to section 1-16 of this Code.

(Ord. No. 308-89, § 2, 1-30-89; Ord. No. 123-89, 10-2-89; Ord. No. 41-91, 7-1-91)

Cross reference—Uniform procedure for collecting assessments, § 1-16.

Sec. 12-33. Notices of violation.

Except as provided in sections 12-32 and 12-32.5, when any violation is found to exist within the meaning of this article, the constable or the health officer shall give the responsible party a written order or notice which shall set forth the violations and shall contain a reasonable time limit for the correction thereof.

(Code 1968, § 305.21; Ord. No. 155-76, 4-21-76; Ord. No. 308-89, § 3, 1-30-89)

Sec. 12-34. Responsibilities hereunder not transferable.

No contract or agreement between the owner or operator and occupant relating to compliance with the terms of this article shall be effective in relieving any
person of the responsibility for compliance with the provisions of this article as set forth herein.
(Code 1968, § 305.22; Ord. No. 155-76, 4-21-76)

Sec. 12-35. Violations.

Whoever violates any provisions of this article or any order of the health authority or obstructs or interferes with the execution of such order or regulation shall be guilty of an offense.
(Code 1968, § 305.23; Ord. No. 155-76, 4-21-76)


ARTICLE III. HEALTH INSURANCES

Sec. 12-46. Waste not to be thrown in public places.

No person shall throw or deposit or cause to be thrown or deposited in any street, sidewalk, court, square, lane, alley or public place any sawdust, soot, ashes, cinders, garbage, paper, shavings, hair, shreds or manure; oyster, clam or lobster shall; waste or dirty water or any animal, vegetable or offensive matter whatever. No person or persons shall throw or cast any dead animal or any foul or offensive matter in any dock or place between the channel and the shore; nor land any foul or offensive animal or vegetable substance within the town nor cast any dead animal into the waters of the harbor. No person shall throw, cast or place any living animal with intent to drown the same in any dock or place between the channel and the shore.
(Code 1968, § 306.1)

Sec. 12-47. Removal from public places.

If any of the substances mentioned in section 12-46 shall be thrown or carried into any street, sidewalk, court square, lane, alley or public place from any house, building cellar, yard or any other place, the occupant of such house or place and the person who actually threw and carried the same therefrom shall severally be liable for such violation of this article, and all such substances shall be removed at the expense of the occupant of the house or other place whence the same were thrown or carried within twenty-four (24) hours after personal notice in writing to that effect is given by the constable or health authority.
(Code 1968, § 306.2)
Sec. 12-48. Removal from buildings at expense of owner or occupant.

All dirt, sawdust, soot, ashes, cinders, garbage, paper, shavings, hair, shreds or manure; oyster, clam or lobster shells; or any animal or vegetable substances or filth of any kind in any house, building, cellar, yard or other place; which the health authority shall deem necessary for the health of the town to be removed, shall be carried therefrom by and at the expense of the owner or occupant of such house or other place where the same shall be found and removed to such place as directed within twenty-four (24) hours after notice in writing to that effect given by the constable or health authority.  
(code 1968, § 306.3)

Sec. 12-29. Failure to comply with order of health authority or Constable.

(a) Whenever any person shall have been duly notified to remove any of the substances mentioned in this article, or to perform any other act or thing which it may be his duty to perform for the preservation of the health of the city and the time limit for the performance of such duty shall have elapsed without compliance with such notice, the constable or health authority shall forthwith cause such substance to be removed at the expense of the person so notified. The constable or health authority shall cause all persons who shall violate or disobey any provisions of this article to be prosecuted and punished.

(b) If, in the opinion of the health authority, it shall be for the health or comfort of the inhabitants of the town that any particular substance should be removed forthwith and without delay, it shall be his duty to cause the same to be removed accordingly. If the substance existed in violation of this article or of any of the laws, regulations, or ordinances relating to the health of the town then the expense of removing the same shall be paid by the owner or occupant of the house or other place where the same was found, and if payment be refused on demand therefore by the constable, it shall be sued for in the name of the town.  
(code 1968, § 306.4)

Secs. 12-50 – 12.54. Reserved.

Sec. 12-55. Urinating in public.

No person shall urinate or defecate in any sidewalk, street, avenue, lane, alley or other public way or any public park, cemetery, square, space, plaza, grounds or building, or in the immediate proximity thereto.  
(Ord. No. 171-89, 12-4-89)

Secs. 12-56 – 12-60. Reserved.
ARTICLE IV. PUBLIC AND PRIVATE DUMPS*

*State law references—Public dumps generally, 30 M.R.S.A. § 4101 et seq; fire prevention at dumps, 12 M.R.S.A. § 1351 et seq.

Sec. 12-61. Public dumps established; waste matter not to be dumped elsewhere.

Except as provided in article VI, the public works authority, with prior approval of the selectmen and health authority, shall designate certain places as dumping grounds for the dumping or depositing of refuse, rubbish, or other waste matter of a similar nature. The dumping or depositing of any refuse, rubbish, or other waste matter of a similar nature by any person at any other place, except as hereinafter provided, is unlawful.

(Code 1968, § 310.1; Ord. No. 137-75, 2-19.75; Ord. No. 260-85, § 2, 12-2-85)

Sec. 12-62. Permit to be issued for fill purposes.

The public works authority, upon written application therefore, shall grant a permit to the owner of any lot, or to any other person with the consent of such owner, to dump or deposit refuse, rubbish, or other waste material of a similar nature upon such lot for fill purposes unless he or she determines that the activity is in violation of law or would amount to a nuisance. The selectmen may, by order, establish a reasonable fee for the application or issuance of such permit. Any owner of any lot who dumps or deposits on his or her own lot any refuse, rubbish, or other waste material of a similar nature, or permits any other person to do so, without a written permit from the public works authority, shall be guilty of an offense.

(Code 1968, § 310.2; Ord. No. 260-85, § 3, 12-2-85)

Sec. 12-63. Enforcement.

The public works authority shall notify the constable of the location of every public dumping ground designated by the authority, and of every private fill for which the authority has issued a permit, and it shall be the duty of the constable to cause the removal of every deposit or accumulation of refuse, rubbish, or waste matter of a similar nature upon private property, other than those made in conformity with the provisions of this article.

(Code 1968, § 310.3)

Sec. 12-64. Failure to remove.

Every owner or occupant of any premises, and every landlord or agent of a landlord having general charge of the same, or any other person, who shall throw, dump, or deposit any refuse, rubbish, or waste matter of a similar nature upon any premises without the permit in this article shall, after notice by constable, remove such refuse,
rubbish waste matter and material so thrown, dumped, or deposited on such premises to a
designated dumping ground within forty-eight (48) hours after receiving such notice, and
upon failure to do so the offender shall be guilty of an offense.
(Code 1968, § 310.4)

Sec. 12-65. Dumping on premise of others.

Any person who, without authority from the owner of the premises, dumps
or deposits upon such premises, not his own, any refuse, rubbish or other waste matter of
a similar nature, or any ashes, cinders, rock, concrete, asphalt or other similar material,
shall be guilty of an offense.
(Code 1968, § 310.5)

Secs. 12-66 –12-74. Reserved.

ARTICLE V. JUNKED MOTOR VEHICLES*

*Cross reference—Traffic and motor vehicles, Ch. 28.

Sec. 12-75. Purpose.

The purpose of the article is to protect the health, safety and general well-
being of the citizens of Long Island to enhance and maintain the quality of the
environment through the removal of junked motor vehicles from the public way and
private property; and the recovery of the costs of removal of such vehicles from the
owners of the vehicles or the owners of private property, whose property values are
improved by the removal of the junked motor vehicles.
(Ord. No. 162-90, 12-10-90)

Sec. 12-76. Placing on streets and public places.

It shall be unlawful for any person to deposit, place, leave or abandon any
old, discarded, worn out or junked motor vehicle, or parts thereof, on any public street or
any public place in the town.
(Code 1968, § 317.1)
Sec. 12-77. Removal from streets or public places.

The town shall have the right to remove or cause to be removed any vehicle or part thereof in violation of section 12-76 from any public street or public place and dispose of it as it sees fit without any liability whatsoever.
(Code 1968, § 317.2) (29A ss. 2069)

Sec. 12-78. Placing on private property.

It shall be unlawful for any person to deposit, place, leave or abandon any old, discarded, worn out or junked motor vehicle, or parts thereof, on any private property in the town except in duly authorized locations.
(Code 1968, § 317.3)

Sec. 12-79. Keeping on private property; notice to remove.

It shall be unlawful for any person owning or occupying private property in the town to keep or allow to accumulate any old, discarded, worn out or junked motor vehicle, or parts thereof, on private property after having received written notice from the town by the selectmen or by an official designated by the selectmen ordering the removal from the property upon not less than thirty (30) days from receipt of the order of the old discarded, worn out or junked motor vehicle, or parts thereof.

A copy of the order shall be hand delivered or sent by certified mail to the owner or occupant of the private property, or to the owner of the motor vehicle if the owner’s identity is known.

The order of removal may be appealed as provided in section 12-80. Failure to appeal such order shall render the order final. In the event of an appeal, the time frames established for the removal of the vehicle shall be stayed during the pendency of the appeal.
(Code 1968, § 317.4; Ord. No. 260-8162-90, 12-10-90)

Sec. 12-79.1 Vehicles on islands.

In the case of junked motor vehicles located on private property on Long Island, the procedures established by 29 M.R.S.A. § 111-A, as amended hereafter, shall be substituted for those in this article. The appeal procedures set forth in section 12-80 of this article shall be applicable to vehicle removal proceedings on the islands.
(Ord. No. 162-90, 12-10-90)

Sec. 12-80. Appeals.

(a) Procedure. An appeal to the selectmen may be taken by a person in receipt of a notice to remove any old, discarded, worn out or junked motor vehicle, or parts thereof, by filing a notice of appeal within thirty (30) days of the mailing of notice of the order, or
receipt of the order, whichever occurs first. The appeal shall be in writing and shall state the basis for appeal. The selectmen shall designate themselves or any agent or employee to act as hearing officer in the appeal. The hearing officer shall provide such person with the opportunity to be heard and to demonstrate why the vehicle is not subject to removal within the terms of this article.

(b) **Notice of hearing.** Notice of the hearing shall be given by regular United States mail at least seven (7) days in advance of the hearing date.

(c) **Action by hearing officer.** The hearing officer may affirm, modify or vacate the order of removal. The written decision of the hearing officer shall be issued to the appellant. Any person aggrieved by a decision of the hearing officer may obtain review available by law in the superior court in accordance with the Maine Rules of Civil Procedure 80B.  
(Ord. No. 162-90, 12-10-90)

**Sec. 12-81. Removal from private property.**

If any person shall fail, within thirty (30) days after receipt of the order or within thirty (30) days of receipt of the decision of the hearing officer affirming order of removal of the vehicle, to remove any vehicle or parts thereof in violation of section 12-78 or 12-79, the town shall have the right by its duly authorized agent to remove the vehicle or part thereof from any private property and dispose of it as it sees fit without any liability whatsoever.  
(Code 1968, § 317.5; Ord. No. 162-90, 12-10-90)

**Sec. 12-82. Cost to be recovered.**

(a) **Liability.** In addition to the fine provided for violation of this article, the person depositing or keeping such vehicle or parts thereof on the public highways, public places or private property shall be jointly and severally liable along with the owner of the private property to the town for the cost of removal thereof and shall pay the costs within thirty (30) days from the date of mailing of a bill assessing the costs of removal. For purposes of this article, there shall be a rebuttable presumption that the last owner of the vehicle deposited or kept the vehicle on the public way, public place or private property.

(b) **Collection.** The procedure for collecting assessments prescribed by section 1-16 of this Code shall apply to all assessments made under this article.

(c) **Lien.** Assessments for the costs of removal shall be enforceable by lien against the owner of private property upon which the junked vehicle was deposited, in the manner prescribed by section 1-16 of this Code.  
(Code 1968, § 317.7; Ord. No. 162-90, 12-10-90)

**Secs. 12-83 – 12-99. Reserved.**
ARTICLE VI. SOLID WASTE DISPOSAL*


Sec. 12-100. Purpose.

The purpose of this article is to protect the health, safety and general well-being of the citizens of Long Island to enhance and maintain the quality of the environment; to conserve natural resources and prevent water and air pollution, by providing for financing the construction, repair and maintenance of a comprehensive, rational and effective disposal and reclamation through the production of energy and otherwise of solid waste in the town of Long Island.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-101. Definitions.

The following words and terms shall have the meanings ascribed thereto, unless the context otherwise indicates:

Acceptable waste shall be an ordinary household, municipal, institutional, commercial and industrial solid waste including, but not limited to, the following:

1. Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing machines, bicycles, baby carriages and automobile or small vehicle tires, to the extent that the contracted facility determines that the air emission criteria and standards applicable to and at the disposal facility are not violated; and

2. Processable portions of commercial and industrial solid waste; and

3. Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four feet long and eight (8) inches in diameter, and leaves, twigs, grass and plant cuttings, provided that the municipality shall not be obligated to deliver or cause to be delivered any items listed in this subpart (3) to the disposal facility and further provided that such items may be delivered to the disposal facility by or on behalf of the municipality on an irregular basis only and shall represent an
insignificant portion of the total waste delivered to the disposal facility by or on behalf of the municipality within any calendar year.

Notwithstanding any provisions to the contrary, unacceptable waste, including hazardous waste, shall not be “acceptable waste” and is explicitly excluded therefrom. Furthermore, any substances which, as of the date of a certain waste handling agreement between the municipality and the contracted facility, are included as “acceptable waste” but which are later determined to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be “acceptable waste” under the terms of this article. However, any substances which, as of the date of such waste handling agreement, are not included within the definition of “acceptable waste” because they are considered harmful, toxic, dangerous or hazardous and which are later determined not to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall be considered “acceptable waste” unless a contrary decision has been or is made by any other governmental agency or unit having appropriate jurisdiction unless such substances are otherwise considered “unacceptable waste” or “hazardous waste.”

**Ashes** shall mean that residue from the burning of wood, coal, coke or other combustible material.

*Biomedical waste* shall mean waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

*Commercial refuse collector* shall mean a person, firm, corporation or other entity that regularly collects and hauls the solid waste or recycled goods of another person, firm, corporation or other entity for a fee.

*Construction and demolition debris* shall mean:

1. Construction/demolition debris;
2. Inert fill;
3. Land-clearing debris; and
4. Wood waste;

all as defined in Chapter 400 of the Maine Department of Environmental Protection regulations as may be amended from time to time, but excluding acceptable waste and hazardous waste and such other solid waste which the board may by order or regulation exclude.

*Disposal* shall mean the discharge, deposit, dumping, incineration, spilling, leaking or placing of any solid waste, sludge or septage into or on any land, air or water so that the
solid waste, sludge, or septage or any constituent thereof may enter the environment, be
emitted into the air or be discharged into any waters.

_Hazardous waste_ shall mean a waste substance or material in any physical state,
designated as hazardous by chapter 400 of the Maine Dept. of Environmental Protection,
and as set by the contracted waste facility.

_Infectious waste_ shall include those wastes so defined by the solid waste management
regulations promulgated by the Maine Department of Environmental Protection pursuant
to Title 38 M.R.S.A. § 1304.

_Person_ shall mean any natural person, corporation, partnership, sole proprietorship,
association or other legal entity.

_Public solid waste disposal facility (disposal facility)_ shall mean any land or structure or
combination of land area and structures including the transfer stations used for storing,
salvaging, reducing, incinerating, reclaiming or disposing of solid wastes:

_Public works authority_ shall mean the Public Works Department of Long Island.

_Resource recovery_ shall mean the recovery of materials or substances that still have
useful physical or chemical properties after serving a specific purpose and can be reused
or recycled for the same or other purpose.

_Solid waste_ shall mean useless, unwanted or discarded solid material with insufficient
liquid content to be free flowing, including, by way of example and not by limitation,
rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse,
but shall not include septic tank sludge nor agricultural, biomedical or hazardous wastes;
it shall also include acceptable waste, unacceptable waste and construction and
demolition debris as defined herein. The fact that a solid waste or constituent of the
waste may have value or other use, or may be recycled, or may be sold or exchanged
does not exclude it from this definition.

_Unacceptable waste_ shall mean that portion of solid waste which is not acceptable waste
and included, but is not limited to, sewage and its derivatives, construction and
demolition debris, agricultural waste, biomedical waste, special nuclear or by-product
materials within the meaning of the Atomic Energy Act of 1954, as amended, and
hazardous waste.
(Ord. No. 192A-93, 1-25-93)

_Sec. 12-102. Reserved._
Sec. 12-103. Solid waste delivery required.

(a) The dumping, depositing or disposal by any person including, but not limited to, any licensed refuse collector, at any place other than at the designated public solid waste disposal facility of any acceptable waste generated within the Town of Long Island is prohibited.

(b) Reserved.

(c) Notwithstanding the provisions of this section, the owner of any lot, or any other person with the permission of the lot owner, may deposit or dump inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to state law and the provisions of article IV of this chapter.

(d) Unless excused by the public works authority in writing because the public solid waste disposal facility is not available for use, no person shall permanently dispose, upon any land within the corporate limits of the Town of Long Island other than at the designated disposal facility.

Sec. 12-104. Incineration of solid waste prohibited.

Except for licensed disposal of hazardous or infectious wastes, it shall be unlawful for any person to burn or incinerate any solid waste within the Town of Long Island. Provided, however, nothing in this section shall apply to the operation of a public solid waste disposal facility.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-105. Administration.

(a) The director of the public works authority shall establish rules and regulations governing the availability and use of Long Island disposal facilities not inconsistent with applicable laws and ordinances including, but not limited to, the exclusion of materials from solid waste which may be deposited at a public solid waste disposal facility and any other rules or regulations that the director determines are needed to implement this article. These excluded materials may include junk automobile bodies and such other bulky waste as may require special processing prior to disposal; trees and tree trunks and limbs; burning materials or materials containing hot or live coals; hazardous wastes, and other materials which the public works authority deems necessary to exclude. Hazardous wastes shall be handled in accordance with Title 38 M.R.S.A. as amended.

(b) Before promulgating any rules or regulations or amendments to rules and regulations, except emergency rules or regulations or amendments, the public works authority shall publish a notice of rulemaking at least twice in a newspaper having a
general circulation in the community. The notice shall state that the public works authority will be promulgating rules, the general subject matter covered by the rules, that a copy of the proposed rules may be obtained at the public works authority and that a public hearing will be held at a specified date, time and place. The second newspaper notice must be published at least seven (7) days before the public hearing. The director may enact the proposed rules and regulations immediately after the public hearing. Rules enacted by the director shall go into effect five (5) days after enactment unless enacted on an emergency basis.

(b.1) Emergency rules:

(1) The director of public works may enact emergency rules when the director determines that such rules are necessary to address a situation that creates a threat of harm to the public health, welfare and safety, and the director’s decision on the necessity for emergency rules shall be conclusive.

(2) Emergency rules shall be accompanied by a declaration of emergency, and the director may enact such rules without prior published notice or any public hearing.

(3) A notice describing the general subject matter of the rules shall be published in a newspaper of general circulation with five (5) days of enactment. Businesses affected by the emergency rules shall be given notice of the rules and a copy of them by mail sent to the business’s last-known address within twenty-four (24) hours of the end of business on the date of promulgation.

(4) Emergency rules shall be in effect for a maximum of sixty (60) days. Failure to give any notice required by this paragraph shall not invalidate any rule.

(c) The operation of any disposal facility shall conform to all pertinent provisions of this Code and applicable regulations or directives of all state or federal agencies which may have jurisdiction.

(d) Any rules and regulations promulgated by the director of the public works authority prior to the enactment of this section are hereby ratified and given the full effect of law.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-106. Authorized disposal facility users.

As a means of user control, the public works authority may require the use of vehicle permits by authorized users which shall be affixed to user vehicles(s). Failure to exhibit such permit may result in denial of use of the city disposal facilities as well as constitute a violation of this chapter.

(Ord. No. 192A-93, 1-25-93)
Sec. 12-107. Resource recovery.

The public works authority may require solid waste to be separated into such categories as may be established by rule pursuant to section 12-105 and disposed of only in such manner and at such sites and locations as designated.  
(Ord. No. 192A-93, 1-25-93)

Sec. 12-108. Property rights.

No person shall salvage, remove or carry off any such deposited solid waste without prior approval of the municipality. The property rights created by this section shall apply only to solid waste as type of waste placed in a disposal container even if that material or waste is mixed with solid waste.  
(Ord. No. 192A-93, 1-25-93)

Sec. 12-109. Licensing of refuse collectors.

Effective October 15, 1988, no person shall collect solid waste within the corporate limits of the town without obtaining a license from the public works authority upon payment of such fees as the council may prescribe by order. Such license shall be issued for the calendar year and shall be subject to the provisions of chapter 15 of this Code, except that:

(1) The public works authority shall be substituted for the clerk in all instances;

(2) An additional fee of three (3) times the cost of the license and permit fee for each container shall be charged for the issuance of any license after expiration of the holder’s prior license unless the application for renewal of the license was filed prior to such expiration; and

(3) The fee for a license which is issued after January first of each calendar year shall be prorated for each full month the licensee will not have the use of the license only if the licensee provides verification that it is a business which was not in existence as of January first. In the event that the licensee is a new business, the license fee shall be reduced by ten (10) percent for each full month that the licensee shall not have use of the license, but in no case shall the license fee be reduced by more than fifty (50) percent.

Sec. 12-110. Licensing, identification and use of roll-on roll-off containers.

(a) This licensing requirement applies only to roll-on roll-off containers.

(b) No solid waste, construction and demolition debris or materials to be recycled, generated within the town may be placed in a roll-on roll-off container unless the container is licensed with the department of public works to hold such waste. In addition to the general container license, a separate permit and appropriate display
stickers shall be obtained each time a container is used to hold either construction and demolition debris or materials to be recycled. The office of building inspections shall issue the separate permit and stickers pursuant to section 12-111 of this article for construction and demolition debris for projects requiring a building or demolition permit. All other permits and stickers shall be issued by the public works authority.

(c) Every roll-on roll-off container used to transport solid waste, construction and demolition debris or materials to be recycled, generated within the city, shall be visibly marked as follows:

(1) On the two (2) largest sides:

   Name of waste hauler company;

   Company’s address and telephone number; and

   Size of container, stated in cubic yards.

(2) Lower left corner/driver side:

   Long Island container license;

   Demolition disposal sticker, if appropriate;

   Recycling sticker, if appropriate.

(d) A container may not have a demolition disposal sticker and a recycling sticker on it at the same time.

(e) A container may only contain one (1) type of waste at a time. Acceptable waste, construction and demolition debris and unacceptable waste may not be placed in the same container at the same time.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-111. Disposal of construction and demolition debris generated within the Town.

(a) Reserved.

(b) Permit required. No person shall collect, recycle, haul or transport construction and demolition debris without first obtaining a construction and demolition debris disposal facility permit as described in the section.

(1) All persons who obtain a building or demolition permit from the town shall simultaneously obtain a construction and demolition debris
disposal facility permit from the office of building inspections. This requirement shall not apply to a residential home-owner whose project will create three (3) cubic yards or less of construction and demolition debris.

(2) Prior to the issuance of a building or demolition permit, the town building inspector or his designee shall inspect the premises for which the building or demolition permit is sought to determine whether hazardous or special wastes are present on the premises; if hazardous or special wastes are present on the premises, the parties seeking the building or demolition permit, must furnish the town with evidence of lawful disposal of the hazardous or special wastes in order to receive the building or demolition permit and construction and demolition debris disposal facility permit.

(3) In any case where the town issued a building or demolition permit before the effective date of paragraph (b)(1) above, the construction and demolition debris disposal facility permit must be purchased from the public works authority by the person transporting the waste or the waste generator.

(4) The demolition debris disposal facility permit shall authorize the person to whom it is issued to dispose of construction and demolition debris from the premises for which the building or demolition permit is issued, at the town designated facility.

(c) Permit fee. The fee for the initial construction and demolition debris disposal permit shall be calculated by the office of building inspections on a case-because basis. It shall depend on fees established by selectmen.

The fee shall be nonrefundable. The disposal permit shall authorize the permittee to dispose of a specified amount of waste at the construction and demolition debris disposal facility and shall only be valid for the amount stated on the face of the permit.

If the amount of the original permit is too low, the permit holder shall purchase a subsequent permit or permits from the public works authority.

If the amount of disposal authorized by the original permit or subsequent permits is too high, the permit owner may obtain a transferable credit from the public works authority for future disposal at the construction and demolition disposal facility so long as the building inspector has issued a certificate of occupancy or completion and the owner applies within two (2) months of the date upon which the building inspector’s certificate was issued. The maximum credit allowed will be fifty (50) percent of the total amount paid for construction and demolition debris permits for the project.
(d) Sorting requirement. At any site for which a building permit is issued, any person or entity that owns or controls the site must sort the waste generated by any construction project on the site in such a manner that acceptable solid waste, metal, and construction and demolition debris without metal, are distinct and can be separately moved. Under no circumstances may these types of waste be mixed in any type of disposal container or in any vehicle.

The metal sorting requirement does not apply to nails and other fastening devices made out of metal.

Wood waste may be separated and recycled at the discretion of the generator if it is unacceptable waste.

Metal waste may be recycled at the discretion of the generator if it is unacceptable waste. The Town may allow clean inert fill to be disposed of at a location designated by the town without a fee providing that applicants receive prior written approval from the town public works authority.

(e) Rejected loads. The city’s public works authority is the only authority to designate a load of demolition debris as unacceptable for disposal at the town construction and demolition debris disposal facility. If a load is rejected, the public works authority will retain the transporter’s trip ticket or coupon and give the waste transporter a reasonable opportunity to bring the load into compliance. If the load is not brought into compliance, the ticket or coupon and the value that it represents shall be forfeited to the town and the transporter shall be given permission to take the load out of the town.

Sec. 12-113. Violations.

(a) Violations of rules promulgated pursuant to the chapter, and violations of this chapter by any person, shall be subject to the penalty provisions of section 12-114 of this Code.

(b) Licenses, renewals of licenses, and permits issued under this chapter may be denied, revoked or suspended by the public works authority as follows:

(1) The first violation by a licensed commercial refuse collector of any provision or provisions of this article shall result, in addition to any penalty or relief the town may seek under section 12-114 of this Code, in a thirty-day (30) suspension of that commercial refuse collector’s license or, if on the date of the first violation such license will expire in less than thirty (30) days, the revocation of such license.

The first violation of the construction and demolition debris provisions of this chapter shall also result in the revocation of any construction and
demolition debris disposal facility permits for the project that generated the waste.

(2) The second violation, at any time, by a licensed commercial refuse collector of any provision or provisions of this article shall result, in addition to any penalty or relief the city may seek under section 12-114 of this Code, in a six-month suspension of that commercial refuse collector’s license or, if on the date of the second violation such license will expire in less than six (6) months, the revocation of such license.

(3) The third violation, at any time, by a licensed commercial refuse collector of any provision or provisions of this article shall result, in addition to any penalty or relief the city may seek under section 12-114 of this Code, in revocation of that commercial refuse collector’s license and in the denial of commercial refuse collector’s licenses to that person for subsequent calendar years unless and until the public works authority determines that the commercial refuse collector may be allowed to apply for and receive a license under this article due to a change in the person’s circumstances since the time of the third violation; provided, however, that any further violation shall result in the revocation of the commercial refuse collector’s license and the barring of that commercial refuse collector from applying for a license under this article in subsequent calendar years.

(4) No commercial refuse collector’s license may be suspended or revoked unless there first has been a hearing before the public works authority, with seven (7) days’ prior written notice to the commercial refuse collector.

(c) Decisions of the public works authority and the office of building inspections may be appealed to the city manager within ten (10) days after receipt of written notice of the public works authority’s or the office of building inspection’s decision. Seven (7) days’ prior written notice of the time and place of the appeals hearing shall be given to the licensee or applicant. The appeals hearing must be held within ten (10) business days of the date upon which the notice of appeal is received by the town unless the licensee and the town agree to extend the hearing date.

The taking of an appeal to the selectmen shall not stay the public works authority’s or the office of building inspection’s decision or any denial, revocation or suspension of a commercial refuse collector’s license or construction and demolition debris disposal facility permit ordered by the public works authority unless the selectmen orders such a stay for good cause shown by the licensee.

Sec. 12-114. Fines.
Whoever violates any of the provisions of this article shall be punished by a fine of not less than two hundred dollars ($200.00) per violation plus costs, which fine shall be recovered on complaint to the use of the city. Each day upon which any continuing violation of any provision of this article shall occur shall constitute a separate violation, and each incident of disposal of solid waste in violation of this article shall constitute a separate violation.

Sec. 12-115. Right to inspect.

Any official, officer or employee of the town shall have the right to inspect the contents of a solid waste container, including a construction and demolition debris container, at any time.

(Ord. No. 192A-93, 1-25-93)

Chapter 13

GENERAL ASSISTANCE*


Cross reference—Administration, Ch. 2.

State law reference—Municipal general assistance programs, 22 M.R.S.A. § 4450.

Sec. 13-1.  Statement of policy.

(a) The city 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., Chapter 1161.

(b) When possible, the general assistance program will seek to alleviate needs other than financial, assisting recipients with arrangements for rehabilitative, preventive, and protective services. The applicant or recipient is expected to make use of all available resources. The general assistance program provides a specific amount and type of aid to current defined needs during a limited period of time and is not intended to be a continuing “grant-in-aid” or “categorical” welfare program.

(c) The goals of the program are to recognize and encourage dignity, self-respect, and self-reliance, to assist each recipient to achieve self-maintenance and adequate social functioning, and to encourage the work incentive. An important focus of attention for the general assistance program is the strengthening of family life, especially for the care and protection of children.

(d) The general assistance program will not discriminate on account of sex, sexual orientation, age, race, religion, disability, or political affiliation. Each applicant or recipient will be made aware of his or her rights and responsibilities under general assistance. Any applicant or recipient has a right to request review of any decision concerning his or her right to assistance.
(e) Complete records will be maintained, although any information given by applicants or recipients will be recognized confidential pursuant to 22 M.R.S.A., Section 4306.

(f) The city will post a notice in the city general assistance office of the times and days that general assistance applications will be processed. This chapter will be made easily accessible to any member of the public and will be available in the welfare office.

(g) In times of emergency, general assistance will be available to eligible persons even at days and times when the general assistance office is not ordinarily open. Notice will be posted of the person to contact in an emergency in a place accessible to the public when the office or building is closed.

9Ord. No. 399-92, 6-3-92)

Sec. 13-2. Definitions.

Unless otherwise defined here or in the text or in 22 M.R.S.A., Chapter 1161, all words used will have their common meanings. Words and phrases having special definitions will be defined when they first appear in the chapter, except for the following definitions:

Administrator is the social services administrator of the city’s department of health and human services to whom the day to day administration of the general assistance program is delegated. The administrator is authorized to delegate some or all of his duties to caseworkers and other employees of the city’s division of social services, and references to the administrator shall include the duly authorized designees of said administrator.

Appellant is any applicant or recipient who has appealed a decision of the administrator to a fair hearing officer.

Applicant is a person who has expressed a desire to receive general assistance by means of a written application form, either directly or through a representative authorized in writing, or through an application accepted by telephone or who has, in an emergency, requested assistance without first completing an application. An applicant may simultaneously be a recipient if he is receiving general assistance at the time of application.

Application form is a document in a form prescribed by the administrator on which a person indicates a desire to receive general assistance and states the necessary facts on which a determination of eligibility can be made.

Back bills are any charges for goods and services received prior to application. A bill that is due in the same month in which an application is made is not a back bill.
Basic necessities are food, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons, property taxes when a tax lien place on the property threatens the loss of the applicant’s place of residence, and any other commodity or service determined essential by the municipality. “Basic necessities” do not include security deposits for rental property, except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full.

Case record is the official file of forms, correspondence, and 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.

Caseworker is any person designated by the social services administrator to assist in administering the general assistance program.

Categorical assistance is all state and federal income maintenance programs.

Disabled person is 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.

Dwelling unit is a building or part thereof used for separate living quarters for one (1) or more persons living as a single housekeeping unit.

Eligible person is a person who is qualified to receive general assistance from the city according to the standards of eligibility set forth in this chapter.

Emergency is any life threatening situation or 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.

Fair hearing officer is a person or persons appointed by the city council who is empowered to review any decision, act, failure to act, or delay in action in regard to general assistance pursuant to 22 M.R.S.A., Section 4322.

General assistance program is a service administered by the city for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. The general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing “grant-in-aid” or “categorical” welfare program. This definition shall not in any way lessen the responsibility of the city 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.
**Household** is an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one (1) or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic need of that household according to the maximum levels of assistance established herein. The income of household members not legally liable or otherwise responsible for supporting the household shall be considered as available to the applicant only when there is a pooling of income.

**Income** is any form of income in cash or in kind received by the household, including net remuneration for services performed, cash received on either secured or unsecured credit, any payments received as an annuity, retirement, or disability benefits, veterans’ pensions, workers’ compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security, and any other payments from governmental sources, unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds and household income from any other source, including relatives or unrelated household members.

The following items are not income:

1. Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;

2. Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs, and child care expenses; or

3. Earned income of children below the age of eighteen (18) years who are full-time students and who are not working full time.

In determining need, as defined herein, the period of time used as a basis for the calculation shall be a thirty-day period commencing on the date of application. This prospective calculation does not disqualify an applicant who has exhausted his income to purchase basic necessities, provided that his income does not exceed the income standards established in section 13-8 below.

Notwithstanding this prospective calculation, if an applicant or recipient receives a lump sum payment after an initial application, that payment must be prorated over future months. The period of proration is determined by disregarding any portion of the lump sum payment that the applicant or recipient has spent to purchase basic necessities, including but not limited to: all basic necessities provided by general assistance; payment of funeral or burial expenses for a family member; travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities; and payment of bills earmarked...
for the purpose for which the lump sum is paid. The period of proration is then determined by dividing the remainder of the lump sum payment by the maximum monthly amount of assistance that the household may receive. That dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for twelve (12) months from the date of application or during the period of proration, whichever is less, except that an applicant may not be considered ineligible to receive emergency assistance under 22 M.R.S.A. § 4308(2) or § 4310 during the period of proration. The lump sum provisions of this section apply only to applicants or recipients who have received prior notice of the provisions.

*Just cause* is a valid, verifiable reason that hinders an individual in complying with one (1) or more conditions of eligibility.

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

*Maximum level of assistance* is the amount of assistance as established in section 13-9 below, or the actual cost of a basic necessity, whichever is less.

*Municipality of responsibility* is the municipality which is liable for the support of any eligible person at the time of application.

*Need* is the condition whereby a person’s income, money, property, credit, assets, or other resources available to provide basic necessities for the individual and the individual’s family are less than the maximum levels of assistance established herein.

*Overseer* is the city’s social services administrator.

*Period of eligibility* is the time for which a person has been granted assistance. Such period shall commence on the date the application for assistance is granted and shall continue for the period stated on the decision. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall such period extend beyond one (1) month.

*Pooling of income* is the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds
or sharing of income or expenses. It is a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one (1) or more household members are not pooling their income have the burden of rebutting the presumption of pooling income by providing verification that they are not doing so.

Real estate is any land, buildings, homes, mobile homes, and any other things affixed to that land.

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

Resident is 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 who is not a resident of the city nor any other municipality is the responsibility of the municipality where the person first applies. The municipality must take and application and grant assistance to the applicant if he is eligible until he establishes a new residence in another municipality.

Resources include, but are not limited to, any program, service, or other sources of support which are an alternative or supplement to general assistance. Potential resources include, but are not limited to, any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support, payments, and jointly held resources where the applicant or recipient share may be available to the individual. Potential resources include AFDC, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs, and any medical and rehabilitative resources recommended by a physician which are available without financial burden and which would not constitute a further physical risk to the applicant.

Sec. 13-3. Administrative procedures.

(a) Records. Pursuant to 22 M.R.S.A., Section 4306, the administrator is required to keep complete and accurate records pertaining to general assistance. These records are necessary to:

1. Provide a valid basis of accounting for municipal funds;
2. Support decisions concerning the applicant’s or recipient’s eligibility;
3. Assure availability of information if an aggrieved person seeks administrative or judicial review of the caseworker’s decision.

In addition to general statistical records concerning the number of persons given assistance and the cost of such support, a separate case record is established for each
individual applying for general assistance and his or her household with the exception of records of individuals presumed eligible through an approved shelter. Each case record shall contain at least the following:

(1) The completed application for assistance;

(2) Grounds for approval or denial of assistance;

(3) A narrative social history containing the need for relief, the results of home visits, collateral information, referrals, changes in status, etc.

(4) Complete data concerning the type and amount of assistance provided.

(b) Confidentiality. 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 expressly permitted by the applicant or recipient in writing. If the administrator releases information contained in an applicant’s or recipient’s case record to a person with a legal right to that information, an entry will be made in the case record, giving the reason(s) for the release.

The applicant or recipient or his legal representative will have the right to review any information contained in his case record. No record will be released to a legal representative or other third party, however, unless the administrator receives a consent form signed by the applicant or recipient expressly authorizing release of the records to the specified parties. The administrator may charge a reasonable fee for the reproduction of records, when appropriate.

(c) Applications; right to apply. Any person has the right to apply for general assistance under this chapter. The head of the family, any other responsible household adult, or a duly authorized representative must apply in person, except as otherwise provided herein. The administrator may require a duly authorized representative to present a signed statement documenting that he is in fact so authorized. The applicant must complete a written application form and any other required forms. The administrator is authorized to promulgate all forms and notices necessary for the administration of this chapter and to file said forms with the state department of human services.

When a person in an emergency is unable to apply in person due to illness, disability, lack of transportation, lack of child care or other good cause, and he cannot send an authorized representative, the caseworker will accept an application by telephone or conduct a home visit to the applicant’s home with his permission. Further assistance shall be granted upon completion of a written application and determination of eligibility hereunder.
The administrator will not grant any assistance as the result of a telephone or home visit application if the applicant refuses to allow the administrator to verify the information.

Each request for assistance will be administered in accordance with this chapter. Applications will be taken during regular business hours at the general assistance office. An independent determination of eligibility for general assistance shall be made by the case worker upon receipt of each application. The application form will give clear notice that the applicant has the right to a fair hearing if he is dissatisfied with the caseworker’s decision.

The administrator is authorized to enter into contracts with emergency shelters for the presumption of eligibility of homeless persons using the shelter.

(d) **Caseworkers’ responsibilities at the time of application.** At the time of application, the caseworker will inform the applicant of the eligibility requirements of the program and ask the applicant to provide all information and documentation necessary for the caseworker to make a determination of eligibility. The information will include:

1. The applicant’s household income, including income actually received from any source or due to be received during the period of eligibility;
2. Any assets or resources available to the applicant, including personal property and real estate;
3. Employment information; if the applicant is unemployed due to a disability, the caseworker will seek information regarding its nature and will recommend rehabilitative services when appropriate;
4. The amount and type of assistance requested.

The caseworker will also be responsible for informing the applicant about the possible ways to reduce his need for general assistance and the applicant’s responsibility to:

1. Accurately report all information necessary to determine eligibility;
2. Fulfill the city’s work requirements pursuant to section 13-4(h) below;
3. Make use of all available resources including, but not limited to, those of other government benefit programs and liable relatives of sufficient means;
4. Participate in a rehabilitation program, when appropriate in order to diminish his dependence on general assistance;
(5) Reimburse the city for the amount of general assistance granted in the event of a subsequent ability to pay;

(6) Notify the caseworker of any change in circumstances that will affect eligibility.

The caseworker will also inform the applicant that the parent(s) or grandparents(s) who live within or own real or tangible property in the state are required to support him in proportion to their ability to pay, and that the city can seek reimbursement therefrom. The caseworker will also inform the applicant of the penalty for false representation and of his right to have decisions reviewed and the nature of the hearing process.

(e) Responsibilities of each applicant and recipient. Each applicant and recipient has a responsibility at the time of each application and thereafter to:

(1) Provide accurate, complete, and current information concerning his or her needs, income, resources, assets, and employment and the whereabouts and circumstances of persons who may be liable for his support;

(2) Notify the caseworker when a change in his need, income, resources, assets, or employment will affect eligibility for general assistance;

(3) Apply for and utilize any other available benefits or resources that will reduce or eliminate the need for general assistance;

(4) Use all money available to him for basic necessities on a priority basis, before requesting general assistance or purchasing items not required for basic needs, except in the case of an initial application; and

(5) Participate in a training education, or rehabilitation program, when appropriate, in order to diminish his/her need for general assistance.

(6) Reimburse the city for assistance provided in the event he has the ability to do so.

Each applicant is responsible for requesting assistance with bills that are current. The city is not responsible for paying back bills except as provided below for emergencies.

(f) Action on application. The caseworker will give a written decision concerning the applicant’s eligibility within twenty-four (24) hours after he has submitted a written application form, or a telephone application has been accepted, together with other documents required for verification and support of information thereon. If approved, assistance will be furnished within that period.
The written decision will inform the applicant of the following:

(1) The type and amount of aid the applicant is eligible for and the period of eligibility; or

(2) The reasons for denial;

(3) The applicant’s right to a fair hearing; and

(4) The applicant’s right to notify the state department of human services and the available means for notifying said department.

(g) Withdrawal of an application. An application is considered withdrawn if:

(1) The applicant dies before assistance is rendered; or

(2) The applicant requests in writing that his application be withdrawn; or

(3) The applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

(h) Temporary refusal to accept application. Under special circumstances, the general assistance administrator may temporarily refuse to accept applications for twenty-four (24) hours. Such circumstances may include, but are not limited to, the following:

(1) When the applicant’s conduct is abusive, disruptive or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be required to leave and not to return until his conduct is under control; or

(2) When a third person applies for assistance on behalf of the applicant. That person may be required to provide written verification that he has been duly authorized to act as a representative for the applicant.

In addition to the foregoing, if the administrator believes that an applicant’s behavior presents a threat to the health or safety of the public or to city employees, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and been required to leave on more than one (1) occasion, then the applicant may be required to designate a third party to apply for assistance on his behalf and the applicant may be prohibited from entering the social services offices.

(i) Emergencies. Except as provided herein, any person who applies for assistance to alleviate an emergency will be granted assistance if they do not have sufficient resources to meet an actual immediate need for basic necessities, although they may be considered otherwise ineligible. An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant, such as a natural
disaster, which could reasonably be expected to pose a threat to the health and safety of the applicant if not alleviated immediately. Examples of such circumstances include, but are not limited to: fire, flood, illness or injury, imminent eviction or termination of utilities, or being stranded in the community.

If an applicant is in emergency need of a basic necessity and the only way to obtain that necessity is by paying a back bill, the administrator will attempt to negotiate with the creditor in order to determine the minimum amount which could be paid in order to meet the emergency need. Notwithstanding the foregoing, emergency assistance is not available to pay a back bill or obligation for a basic necessity if the person requesting the assistance had sufficient income, money, assets or other resources available to pay for the basic necessity when the bill was received or the obligation was due. The person requesting assistance shall be required to provide evidence of income and resources for the applicable time period.

Notwithstanding the foregoing, a person who is currently disqualified from general assistance for a violation of section 13-4(f), 13-4(g) or 13-5(e) is ineligible for emergency assistance under this subsection.

(Ord. No. 399-92, 6-3-92)

Sec. 13-4. Eligibility factors.

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

The city also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this city or any other municipality. If a person who is not a resident of any municipality applies in this city first, the administrator will determine his eligibility and, if eligible, will grant assistance until he establishes a residence in another municipality.

Moving/relocating. The city 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, the city will be responsible for providing assistance to him for thirty (30) days after he moves, provided the recipient remains eligible.

Institutions. If a resident of this city enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home or hospital) and requests assistance while at the institution, he will be the responsibility of the city for up to six (6) months after he enters the institution. The city thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in the city to which he intends to return. The city also recognizes its responsibility
for an applicant residing in an institution in this city if he had no residence prior to entering the institution.

**Temporary housing.** For the purpose of this paragraph, a hotel, motel or similar place of temporary lodging is considered an institution when a municipality:

1. Grants financial assistance for a person to move to or stay in temporary lodging;
2. Makes arrangements for a person to stay in temporary lodging;
3. Advises or encourages a person to stay in temporary lodging; or
4. Illegally denies housing assistance and, as a result of that denial, the person stays in temporary lodging.

**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. If the applicant applies in this city first, the administrator will determine his 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.

(b) **Initial application.** For initial applicants, need will be the sole condition of eligibility. An initial applicant is a person who has not applied for general assistance in this city within the last twelve (12) months, or in any Maine municipality within the last six (6) months. If twelve (12) months (or six (6), as applicable) have passed from the time of one (1) application to the next, the next application will be considered an “initial application,” and the person’s eligibility will be determined solely on the basis of need.

“Need” means that the applicant’s income and resources are less than the overall maximum level of assistance contained in section 13-9 of this chapter or the actual thirty-day costs, whichever is less, and he does not have adequate income or other resources available to provide basic necessities.

**Subsequent applications.** Persons who are not initial applicants must be in need, use their income and resources to secure basic necessities, and meet all other eligibility conditions contained below.

(c) **Categorical assistance.** Receipt of categorical assistance will not disqualify a person from receiving general assistance, if he is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of food stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need. Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or resources;
that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his total fuel costs. Applicants or recipients must apply for program benefits within seven (7) days after being advised in writing to do so by the administrator. Persons who, without just cause, make no good faith effort to receive a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit.

(d) *Personal property.*

(1) Liquid assets. No person owning assets easily convertible into cash, including but not limited to, back deposits, stocks, bonds, certificates of deposit and other marketable security will be eligible for general assistance unless he uses such assets to provide for his basic needs and thereby exhausts them. Applicants who transfer their assets to someone else solely to appear eligible for general assistance will be denied assistance.

(2) Tangible assets. No person owning personal property (such as motor vehicles, snow-mobiles, boats, trailers, recreational vehicles) or other assets which are readily convertible to cash and are not essential to the maintenance of the applicant or his family, shall be eligible for general assistance. Exceptions may be made upon an initial application or when reasonable efforts to convert assets to cash are unsuccessful. Tools of the trade, livestock, and farm equipment used in the production of income are exempt from the above category and are not considered as available assets.

The ownership on one (1) 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; however, continued eligibility for assistance will depend upon the applicant making reasonable efforts to dispose of the automobile if his equity interest in the automobile exceeds twenty-five hundred dollars ($2,500.00), or if it is not essential for the above-named purposes.

(3) Insurance. Insurance that is available to an applicant on a noncontributory 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 will be considered as a tangible asset and eligibility after the initial application shall depend upon the applicant’s making reasonable efforts to obtain the case surrender value.

(e) *Real estate.* Ownership of a house used as a principal residence will not affect eligibility. When an applicant who owns his own home is unable to pay his mortgage, taxes, or insurance, and is eligible for general assistance, the city will provide only the mortgage payment up to the allowable maximum for rent. Notwithstanding the foregoing, the city may provide assistance for the payment of taxes on a principal residence in the event of an emergency.
If an applicant is granted assistance in the form of a mortgage payment, the city may claim a lien against any real estate owned by that person pursuant to 22 M.R.S.A., Section 4320, which lien shall be enforceable upon sale of the property or death of the recipient.

The administrator may provide emergency assistance to persons owning real property other than their own home. However, continued future eligibility for assistance will depend upon the applicant making reasonable efforts to dispose of such real property at fair market value or obtain a loan against such property to use to meet present need.

(f) Use of potential resources. Any applicant or recipient must make a good faith effort to secure any potential resource which may be available, including, but not limited to, any state or federal assistance program, employment benefits, trust funds, support from legally liable relatives, child-support payments, and jointly held resources where the applicant or recipient share may be available to the individual. Assistance shall not be withheld pending receipt of such resource as long as application has been made or good faith effort is being made to secure the resource.

Any individual applying for or receiving general assistance due to a disability must make a good faith effort to make use of any medical and rehabilitative resources that may be recommended by a physician which are available without financial burden and would not constitute further physical risk to the individual.

“Without financial burden” shall include without financial burden to the city to the extent such resources are available, as well as without financial burden to the individual.

Any applicant or recipient who refuses to utilize potential resources without just cause as define in subsection (h) below, after receiving a written seven-day notice, shall be disqualified from receiving assistance until he has made a good faith effort to secure the resources.

Any applicant or recipient who forfeits receipt of or causes reduction in benefits from another public assistance program because of fraud, misrepresentation, or a knowing or intentional violation of program rules committed by the applicant or recipient within the sixty (60) days prior to his application for assistance, is not eligible to receive general assistance to replace the forfeited assistance for a period of ninety (90) days from the date of application for general assistance, except as provided for initial applications.

(g) Work requirement. If unemployed, persons who receive general assistance are expected to fulfill a work requirement either by participating in a work search program, job training program, or rehabilitation program, and/or workfare, as appropriate as determined by the caseworker. Recipients are expected to fulfill the work requirement assigned to them, and will be exempted from the requirement only for just cause.
A determination of the assigned work requirement will be made at the time of application and the recipient will be given written notice of the required assignment at that time.

(1) Work search; rehabilitative services. All unemployed applicants and members of their households who are over the age of seventeen (17), except as provided below, may be required to search for work, accept any suitable job offer, or job training, or opportunity for rehabilitation services. If the work search requirement is assigned, applicants must demonstrate to the administrator that they are available for work forty (40) hours a week and are actively seeking employment, except as provided in subsection (3) below.

A “suitable job offer” as used herein means any job which the applicant is mentally and physically able to perform.

“Available for work,” as used herein, will mean that applicants must make themselves available for work during normal business hours prevailing in that area, Monday through Saturday, and show that no circumstance exists which would prevent them from accepting full-time employment. Full-time employment means forty (40) hours a week.

Applicants who are employed are expected to remain on the job and not to quit employment except for just cause.

After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for ninety (90) days if they, without just cause:

a. Refuse to register for employment with the Maine Job Service;

b. Refuse to search for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent work search and will be disqualified;

c. Refuse to accept a suitable job offer;

d. Refuse to participate in a training, education, or rehabilitation program that would assist the applicant in securing employment;

e. Fail to be available for work;

f. Voluntarily quit work after an initial application for assistance;

g. Refuse to perform or willfully fail to perform, or perform below average standards, an assignment under subsection (2) below (work program); or

h. Have been discharged for misconduct as defined in 26 M.R.S.A. § 1043(23).
(2) Municipal work program. In addition to or alternatively to the requirements of subsection (1) above, the city may require that an otherwise eligible person who is capable of working be required to perform work for the municipality or work for a nonprofit organization, if that organization has agreed to participate as an employer in the municipal work program, as a condition of receiving general assistance. Nonprofit organizations participating in the work program must enter into a contract with the administrator for such participation, which contracts the administrator is authorized to execute on behalf of the city. The city may also require recipients to participate in a training or educational program which would assist them in securing employment. Any such work requirement shall be subject to the following provisions:

a. No person may, as a condition of general assistance 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 the general assistance standards herein. 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.

b. In no case may eligible persons performing work under this subsection replace regular municipal employees or regular employees of a participating nonprofit organization.

c. In no case may an eligible person in need of emergency assistance (i.e., a person who is not on a ninety-day denial) be required to perform work under this subsection prior to receiving general assistance.

d. Expenses related to work performed under this subsection by an eligible person shall be considered in determining the amount of net general assistance to be provided to the applicant.

e. No person will be required to work under this subsection if that work would violate a basic religious belief of that person.

In no case may an eligible person be required to work for more than forty (40) hours per week. An eligible person who has full-or-part-time employment or self-employment shall be exempt from the work requirement only to the extent that the work requirement in combination with his regular employment or self-employment exceeds forty (40) hours per week.

(3) In no case may the requirement to search for work or participate in a work or training program interfere with:

a. Existing employment;
b. Ability to pursue a bona fide job offer;
c. Ability to attend an interview for possible employment;
d. Classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
e. Classroom participation in a training program which is either approved or determined, or both, by the Department of Labor to be reasonably expected to assist the individual in securing employment. This paragraph does not include participation in a degree granting program, except when that program is under the control of the Department of Human Services or Department of Labor (e.g., Job Training Partnership Act or the Welfare Employment Education and Training Program).

(4) Failure of an otherwise eligible person to comply with this section shall not affect the eligibility of any member of the person’s household who is not capable of working, including at least:

a. A dependent minor child;
b. An elderly, ill, or disabled person; and
c. A person whose presence is required in order to provide care for any child under the age of six (6) years or for any ill or disabled member of the household.

(5) Applicants will be ineligible for assistance for ninety (90) days if they do not comply with the requirements of this subsection (g) without just cause, as defined in subsection (h) below. Persons may regain their eligibility if they become employed or complete the workfare and work search assignments previously established in the written decision on their application sheet and meet all other eligibility requirements. An applicant disqualified for failure to comply with the municipal work program will be given only one (1) opportunity to regain eligibility during the ninety-day disqualification.

(6) In administering the work requirement, the administrator will:

a. Itemize work or other activities assigned to and performed by eligible persons separately in reports to the commissioner of human services;
b. Read or have the applicant read an information sheet that must be signed prior to commencing the assignment so that the applicants will understand the conditions of their general assistance. The information sheet will detail the amount of time persons need to perform to meet their needs and the type of assignment that they are required to perform.

(h) Just cause. Just cause for failure to meet the work requirements in subsection (g) or the use of potential resources in subsection (f) shall be found when there is reasonable and verifiable evidence of:

(1) Physical or mental illness or disability;

(2) Below minimum wages;
(3) Sexual harassment;

(4) Physical or mental inability to perform required job tasks;

(5) Inability to work required hours or to meet piece work standards;

(6) Lack of transportation to and from work or training;

(7) Inability to arrange for necessary child care or care of ill or disabled family member;

(8) Any reason found to be good cause by the employment security commission; and

(9) Any other evidence which is reasonable and appropriate under the circumstances.

All claims of illness or disability under this chapter are subject to verification except the caseworker shall not require medical verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention. In any case in which the caseworker requires medical verification, and the applicant has no means of obtaining such verification, the caseworker shall grant assistance for the purpose of obtaining such verification from a medical provider approved by the city.

No recipient will have his assistance terminated, reduced, or suspended prior to being given notice and an opportunity for a hearing as provided in section 13-7 below. If the fair hearing officer upholds the decision of the administrator, the period of ineligibility shall commence on the date the fair hearing officer renders a written decision. In the case of a person who chooses not to request a hearing, the period of ineligibility shall commence on the date the administrator renders his written decision. People who are disqualified before the period covered by any particular form of assistance expires shall be disqualified for ninety (90) days from the end of the period covered by that assistance. The period of ineligibility shall run for ninety (90) days, unless a stay is ordered by a court of law.

(Ord. No. 399-92, 6-3-92)

Sec. 13-5. Determination of eligibility.

(a) Determination; redetermination. The administrator shall make a determination of eligibility each time a person applies or reapplys for general assistance. The administrator will make a redetermination of eligibility at least monthly, or within the month, as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant’s eligibility on the bases of a thirty-day prospective analysis, but may elect to disburse the applicant’s assistance periodically, e.g., daily, weekly, or throughout a thirty-day period.
of eligibility pursuant to that eligibility determination. Assistance will be provided for current needs only, and the city is not responsible for back bills, except as provided in section 13-3(i) above.

The administrator may redetermine a person’s eligibility at any time during the period he is receiving assistance if 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 assistance 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 officer.

(b) Verification. Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate, and current information and documents concerning his need, income, and other resources. For documentation, the administrator will require actual bills or receipts for rent, utilities, fuel, telephone, medical services, and other expenses for basic necessities that are reasonably obtainable, except that food and household supplies will be budgeted at the actual amount paid, subject to the maximums allowed in this chapter. The administrator will also require documentation regarding the applicant’s income and assets. 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.

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 which has information that has a bearing on an applicant’s eligibility; financial institutions except national banks; employers, landlords, physicians, other service providers, and legally liable relatives. The administrator will request the applicant’s written consent in order to receive necessary information. In the case of verification of employment, the administrator will give the applicant written notice that if he does not provide documentary verification of benefits received within one (1) week of application, the employer will be contacted.

Any person who is required to but refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within three (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 twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the overseer or administrator is guilty of a Class E crime.

The applicant is required to provide all information necessary for the administrator to determine if he is eligible for assistance. When available information is inconclusive or conflicting regarding a material fact that is necessary to determine eligibility, the administrator will inform the applicant what further information is needed. In order to be considered inconclusive or conflicting, the information on the application
must be inconsistent with other information on the application, previous applications, or other information received by the administrator.

The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation of his needs, income, and other resources, or who refuses to grant permission for the administrator to contact other persons or otherwise 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 accomplished.

The applicant will be given the opportunity to provide the necessary information prior to the expiration of the twenty-four-hour time period within which the administrator must act on the application. If all the necessary information has been provided and the applicant is found to be eligible, assistance will be granted. If the applicant does not provide the required information needed within the twenty-four-hour period, and the administrator cannot determine the applicant’s eligibility, the application will be denied on the basis of insufficient information and documentation. The administrator will notify the applicant that he may reapply when he can complete the application.

(c) Eligibility of members of person’s household. Failure of an otherwise eligible person to comply with this chapter shall not affect the general assistance eligibility of any member of the person’s household who is not capable of working, including at least:

1. A dependent minor child
2. An elderly, ill, or disable person; and
3. A person whose presence is required in order to provide care for any child under the age of six (6) years, or for any ill or disabled member of the household.

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

1. The minor is residing in a foster home, maternity home, or other adult supervised supportive living arrangement; or
2. The minor has no living parent or the whereabouts of both parents are unknown; or
3. No parent will permit the minor to live in the parent’s home; or
(4) The minor has lived apart from both parents for at least one (1) year before the birth of any dependent child; or

(5) The department of human services determines that the physical or emotional health or safety of the minor or the minor’s dependent child or children would be jeopardized if the minor and his child or children lived with a parent; or

(6) The department of human services determines, in accordance with its regulations, that there is good cause to waive this limitation on eligibility.

Any unemancipated or unmarried minor under the age of eighteen (18) who is applying independently from his parents for general assistance will be informed that until he reaches the age of eighteen (18), the minor’s parents are still legally liable for his support and the city has the right to seek recovery from the parents of the cost of all assistance granted to the minor, at least to the extent his parents are financially capable of repaying the city. With regard to any such application, the city may seek verification of the minor’s need for general assistance by contacting his parents. If the applicant’s parents declare a willingness to provide the applicant with his basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his needs are being provided by a legally liable relative.

(e) Benefits pending verification. Whenever an applicant for general assistance states to the caseworker that he is in an emergency situation and requires immediate assistance to meet basic necessities, the caseworker shall, pending verification, issue to the applicant either personally or by mail, within twenty-four (24) hours of the application, sufficient benefits to provide the basic necessities needed immediately by the applicant, provided that the following conditions are met:

(1) As a result of the initial interview with the applicant, the caseworker determines that the applicant will probably be eligible for assistance after full verification is completed.

(2) Where possible, at the time of the initial interview, the applicant shall submit to the caseworker adequate documentation to verify that there is a need for immediate assistance.

(3) When adequate documentation is not available at the time of the initial application, the caseworker may contact at least one (1) other person for the purpose of obtaining information to confirm the applicant’s statements about his need for immediate assistance.
(4) Limitations. In no case:

a. May the authorization of benefits under this section exceed thirty (30) days; and
b. May there be further authorization of benefits to the applicant until there has been full verification confirming the applicant’s eligibility.

(Ord. No. 399-92, 6-3-92)

Sec. 13-6. False representation.

It is unlawful for a person to make knowingly and willfully a false representation of a material fact in order to receive general assistance or to cause another to receive assistance. A material fact is any information which has a direct bearing on the person’s eligibility. False representation shall consist of any action by an individual to knowingly and willfully:

(1) Make a false statement to the administrator or the state department of human services or their agents, either orally or in writing, in order to obtain assistance to which the applicant, the applicant’s household or another is otherwise not entitled;

(2) Conceal information for the overseer, administrator or the state department of human services or its agents in order to obtain assistance to which the applicant or applicant’s household or another is otherwise not entitled; or

(3) Transfer real or personal property to a third party solely to appear eligible for general assistance. There will be a rebuttable presumption that the applicant transferred his assets in order to appear eligible for general assistance if the transfer occurred within thirty (30) days prior to applying for general assistance, or if property is sold to a relative or acquaintance for less than fair market value; or

(4) Use general assistance benefits for a purpose other than that for which they were intended.

When the administrator has reason to believe a misrepresentation of circumstances has occurred on an application, the applicant will be asked to furnish the information needed 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 there has been a false representation of a material fact, the applicant may be ineligible for assistance for up to ninety (90) days, although the remainder of the applicant’s household may still be eligible. False representation hereunder is a Class E crime.

No person will be denied general assistance solely for making a false representation prior to being afforded the opportunity to appeal the decision to the fair
hearing officer in accordance with section 13-12 of this chapter. No recipient shall have his assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision.

If an applicant or recipient does not appeal the decision, or if the fair hearing officer determines that an applicant or recipient did make a false representation, he will be required to reimburse the city for any assistance received to which he was not entitled. Any person who is dissatisfied with the decision of the fair hearing officer may appeal that decision to the superior court pursuant to Rule 80-B, Maine Rules of Civil Procedure.

In no event will the disqualification of a person under this section serve to disqualify any dependent in their household. In the event one (1) or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

(Ord. No. 399-92, 6-3-92)

Sec. 13-7. Determination of need.

(a) Determination of need. The period of time used to calculate need will be the thirty-day period starting from the date of application. Applicants will not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in section 13-9(a). The difference between the applicant’s income/resources and the overall maximum levels of assistance established by this chapter is the applicant’s deficit. Once an applicant’s deficit has been determined, the specific maximum levels of assistance for each basic necessity listed in section 13-9(c) shall be used by the administrator to determine the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to maintain health and decency.

The administrator will calculate applicant’s expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 13-9(b) or (c), whichever is less. Applicants will not be considered eligible if their income and other resources exceed this calculation (or the overall maximums in section 13-9(a)) except in an emergency.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 13-9 of this chapter, except in an emergency.

(b) Income for basic necessities. Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive
assistance to replace income that was spent within the thirty-day period prior to an
application for assistance on goods and services that are not basic necessities. All income
spent on goods and services that are not basic necessities will be considered available to
the applicant and combined with the applicant’s prospective thirty-day income for the
purposes of computing eligibility. Applicants who have sufficient income to purchase
goods or services which are not basic necessities will not be considered eligible for
assistance. Persons who exhaust their income on basic necessities and who still need
assistance with other basic necessities will be eligible, provided that their income does
not exceed the overall maximum level of assistance.

(c) Use-of-income requirements. Except for initial applicants, anyone applying
for general assistance must document their use of income to the administrator.

Cable television, mail orders, cigarettes/alcohol, gifts, purchases, costs of trips or
vacations, court fines paid, repayments of unsecured loans, credit card debt, costs
associated with pet care, legal fees, late fees or key deposits are not considered basic
necessities and will not be included in the budget computation. The foregoing list is not
intended to be exhaustive and the administrator is authorized to promulgate and update as
needed a list of ineligible items.

The city reserves the right to impose specific use-of-income requirements on any
applicant, other than an initial applicant, who fails to use his income for basic necessities
or fails to reasonably document his use of income. Those additional requirements will be
applied in the following manner:

(1) The administrator may require the applicant to use some of all of his
income, at the time it becomes available, toward specific basic necessities. The
administrator may prioritize such required expenditures so that most or all of the
applicant’s income is applied to housing (i.e., rent/mortgage), energy (i.e., heating
fuel, electricity), or other specified basic necessities.

(2) The administrator will notify applicants in writing of the specific use-of-
income requirements placed on them.

(3) If upon subsequent application it cannot be determined how the
applicant’s income was spent, or it is determined that some or all other the
applicant’s income was not spent as directed and was also not spent on basic
necessities, the applicant will not be eligible to receive either regular or
emergency general assistance to replace that income.

(4) If the applicant does not spend his income as directed, but can show with
verifiable documentation that all income was spent on basic necessities up to
allowed amounts, the applicant will remain eligible to the extent of the applicant’s
eligibility and need.
(Ord. No. 399-92, 6-3-92)
Sec. 13-8. Income.

(a) Income standards. Applicants whose income exceeds the overall maximum level of assistance provided in section 13-9(a) shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant’s income and expenses each time they apply.

(b) Calculation of income. To determine whether applicants are in need, the administrator will calculate the income they will receive during the next thirty-day period commencing on the date of application and any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous thirty-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the chapter maximums for specific basic necessities. If the applicant’s income exceeds the amount needed for basic necessities, up to the maximum levels contained in section 13-9, the applicant will not be considered in need. Exceptions will be made in emergency situations which may necessitate that the maximum levels be exceeded. To calculate weekly income and expenses, the administrator will divide the applicant’s monthly income and expenses by four and three-tenths (4 3/10).

(c) Types of income. Income, defined in section 13-2, which will be considered in determining an applicant’s need includes, but is not limited to:

(1) 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 to be included. 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 sold fall into this category. 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 and child care costs will be deducted from income.

(2) Self-employment. With respect to self-employment, total profit is arrived at by subtracting reasonable business expenses from gross income. In the event that business expenses exceed income, or there is no reasonable likelihood that the business will be profitable within a three-month period, the applicant will be required to comply with the work requirements.

(3) 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 it is actually received by the applicant or used to pay any of his expenses. Income from unrelated 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 or intermingle their funds so as to provide support to one another.

(4) **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. Food stamps and fuel assistance payments made by the home energy assistance program will not be considered income.

(5) **Court-ordered support payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The administrator will refer cases where support payments are not actually received to the state department of human services’ support enforcement location unit.

(6) **Income from other sources.** Payments from pensions, annuities, trust funds, and disability or other insurance will be considered income. Income from unrelated household members who occupy the same dwelling unit and who contribute their fair share for living expenses such as rent, fuel and utilities will not be considered income that is available to the applicant unless actually received by the applicant. However, only the applicant’s prorate share of expenses will be considered when determining his expenses. Income also include gifts and cash received on secured or unsecured credit, from any source.

(7) **Earnings of a son or daughter.** Income from children who are members of the household will be considered available. Earned income received by sons and daughters below the age of eighteen (18) who are full-time students and who are not working full-time will not be considered income.

(8) **Income from household members.** Income from all related members of the household will be considered available except as provided in (7) above.

(9) **Pooling of income.** When two (2) or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, there is a rebuttable presumption that the entire household is pooling income. One (1) or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable information affirmatively demonstrating a pattern of nonpooling for the duration of the shared living arrangement. If the applicant is unable to successfully rebut the presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the presumption that all household income is being pooled, the applicant’s eligibility will be determined on the basis of his income and his prorate share of actual household expenses.
(10) *Lump sum income.* The lump sum proration in section 13-2 above and herein only applies to applicants who:

a. Are not initial applicants; and
b. Had notice, prior to receiving the lump sum payments, of the authority to prorate eligibility.

If these conditions are met, the lump sum proration will be determined as follows:

a. Subtract from the lump sum payment all deductions required by state or federal law;
b. Subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities provided by general assistance up to the specific maximum levels of assistance, per month, provided in this chapter; payment of funeral or burial expenses for a family member; travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities; and
c. Divide the remaining amount by the applicant’s maximum monthly allocation of general assistance.

This amount represents the number of months from the receipt of the lump sum payment that the applicant(s) will not be eligible for general assistance, except in an emergency. No proration of eligibility can extend longer than twelve (12) months from the date of application. Applicants who have been declared ineligible by reason of lump sum proration shall be eligible for emergency general assistance during the period of proration according to the standards at section 13-3(i) of this chapter.

(Ord. No. 399-92, 6-3-92)

**Sec. 13-9. Basic necessities.**

(a) *Overall maximum levels of assistance.* Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in this section, an applicant’s eligibility for general assistance will be first determined by subtracting his total income, less voluntary deductions mandated by state, federal or local law, from the overall maximum level of assistance designated immediately below for the applicable household size. Except on initial applications, applicants must apply their income to basic necessities. Applicants whose income exceeds the overall maximum level of assistance and/or applicants who have not applied their income toward basic needs as required shall not be eligible for general assistance, unless they are in an emergency.
### Maximum levels of assistance for specific basic necessities.

The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant’s deficit toward assistance with any one (1) or combination of necessities not to exceed the total deficit. 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 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.

No assistance will be granted to an applicant for any expense which has been or will be paid by another person, or which has been incurred in another person’s name.

### Necessary expenses.

Assistance will be granted pursuant to the provisions of this section. Necessary expenses will be defined as follows:

#### (1) Food.

The actual expense for food will be budgeted to the following maximums. Alcoholic beverages, tobacco products, pet food and paper products are not considered to be food.
Additional members of household: Add $83.99 per month ($19.50 per week) per person. The administrator is authorized to adjust the above amounts to conform to the U.S.D.A. “Thrifty Food Plan” amounts to the extent that such amounts are recommended by the Maine State Department of Human Services.

(2) **Housing.** The payment for rent or mortgage will be entered in the budget but may not exceed the following maximums regardless of the amount actually paid. It is the responsibility of the applicant to obtain housing that is within his ability to pay and which is the minimum size unit needed to shelter the applicant’s household.

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<th>Number in Household</th>
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<th>Heated Weekly Rent</th>
<th>Unheated Monthly Rent</th>
<th>Heated Monthly Rent</th>
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<td>$235.00</td>
<td>315.00</td>
</tr>
<tr>
<td>2</td>
<td>80.00</td>
<td>94.00</td>
<td>340.00</td>
<td>405.00</td>
</tr>
<tr>
<td>3 and 4</td>
<td>95.00</td>
<td>115.00</td>
<td>410.00</td>
<td>495.00</td>
</tr>
<tr>
<td>5 or more</td>
<td>120.00</td>
<td>142.00</td>
<td>520.00</td>
<td>610.00</td>
</tr>
</tbody>
</table>

* Add $4.00 per week or $18.00 per month if electricity is included.

When the city issues in aggregate more than six hundred dollars ($600.00) in rental payments to any landlord in any calendar year, a 1099 Form declaring the total amount of rental payments during the calendar year will be issued to the Internal Revenue Service. This may be adjusted by the administrator to comply with IRS regulations.

Any landlord wishing to receive rental payments from the city on behalf of any applicant must comply with all state and local licensing and land use codes. The city reserves the right to inspect any rental unit whenever an applicant applies for assistance with that rent, such inspections to determine whether that unit is in compliance with the city’s housing and land use codes. The administrator is authorized to promulgate policies detailing such inspection requirements.

(3) **Fuel.** Expense for fuel oil for heat and hot water, if not included in the rent, will be budgeted at actual cost, subject to the following maximums:

<table>
<thead>
<tr>
<th>Month</th>
<th>Maximum Number of Gallons #2 Fuel Oil</th>
<th>Maximum Number of Gallons Kerosene</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 15 to October 30</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Month</td>
<td>Maximum Number of Gallons</td>
<td></td>
</tr>
<tr>
<td>-----------------------</td>
<td>---------------------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>#2 Fuel Oil</td>
<td>Kerosene</td>
</tr>
<tr>
<td>November</td>
<td>125</td>
<td>150</td>
</tr>
<tr>
<td>December</td>
<td>200</td>
<td>250</td>
</tr>
<tr>
<td>January</td>
<td>300</td>
<td>250</td>
</tr>
<tr>
<td>February</td>
<td>200</td>
<td>250</td>
</tr>
<tr>
<td>March</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>April 1 to May 15</td>
<td>150</td>
<td>100</td>
</tr>
<tr>
<td>May 15 to September 15</td>
<td>120</td>
<td>100</td>
</tr>
</tbody>
</table>

(hot water only)

If hot water is not provided by fuel oil (or kerosene as applicable), deduct thirty (30) gallons per month from the above maximums.

(4) **Utilities.** Expenses for gas or electricity, if not included in the rent, will be budgeted at actual cost, subject to the following maximums:

**Basic Amount:**

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 or 2</td>
<td>$26.00</td>
</tr>
<tr>
<td>3 or 4</td>
<td>$53.00</td>
</tr>
<tr>
<td>5 or more</td>
<td>$76.00</td>
</tr>
</tbody>
</table>

If hot water is provided by gas or electricity, and is not included in the rent, the expense will be budgeted at actual cost, subject to the following maximums to be added to the basic amount:

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 or 2</td>
<td>$16.00</td>
</tr>
<tr>
<td>3 or 4</td>
<td>$30.00</td>
</tr>
<tr>
<td>5 or more</td>
<td>$42.00</td>
</tr>
</tbody>
</table>

If heat is provided by gas or electricity, and is not included in the rent, the expense will be budgeted at actual cost, subject to the following maximums to be added to the basic amount:

<table>
<thead>
<tr>
<th>Month</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>September and October</td>
<td>$72.00</td>
</tr>
<tr>
<td>November</td>
<td>$96.00</td>
</tr>
<tr>
<td>December through February</td>
<td>$168.00</td>
</tr>
<tr>
<td>March</td>
<td>$96.00</td>
</tr>
<tr>
<td>April and May</td>
<td>$72.00</td>
</tr>
</tbody>
</table>
(5) *Water and sewer.* The allowed amount for water and sewer utility services will be budgeted at the actual cost, subject to the following maximums:

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Water</td>
</tr>
<tr>
<td>1</td>
<td>$5.12</td>
</tr>
<tr>
<td>2</td>
<td>6.19</td>
</tr>
<tr>
<td>3</td>
<td>8.33</td>
</tr>
<tr>
<td>4</td>
<td>11.54</td>
</tr>
<tr>
<td>5</td>
<td>13.68</td>
</tr>
</tbody>
</table>

Additional members of household: Add two dollars and fifty cents ($250) for water and seven dollars and fifty cents ($7.50) for sewer per month. The administrator may adjust the foregoing maximums for water and sewer to reflect approved rate increases.

(6) *Personal and household items.* This allowance covers necessary personal care and household supplies such as toothpaste, soap, toilet paper, etc., and will be granted according to the applicant’s actual need for these items subject to the following maximums. The maximum amounts allowed are:

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$5.00</td>
<td>$20.00</td>
</tr>
<tr>
<td>2</td>
<td>7.00</td>
<td>28.00</td>
</tr>
<tr>
<td>3 or 4</td>
<td>9.00</td>
<td>36.00</td>
</tr>
<tr>
<td>5 or more</td>
<td>11.00</td>
<td>44.00</td>
</tr>
</tbody>
</table>

(7) *Clothing.* If the applicant and his or her dependents have insufficient funds to purchase clothing, the applicant is expected to make maximum use of church and civic organizations or other sources in the community which make free or low-cost clothing available. If necessary, the city will provide payment for essential items obtainable from these sources. Exceptions to this policy will be made only for special items such as work clothes, children’s shoes, and cloth or disposable diapers as provided below, which are unavailable from these sources. If a household includes children below the age of three (3) who use diapers, one (1) of the following may be authorized:

a. Cloth diapers and/or laundry assistance; or
b. Voucher to purchase disposable diapers in the following maximum amounts:

<table>
<thead>
<tr>
<th>Number of Children Using Diapers</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$10.00</td>
<td>$40.00</td>
</tr>
<tr>
<td>Number of Children Using Diapers</td>
<td>Weekly Amount</td>
<td>Monthly Amount</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>--------------</td>
<td>---------------</td>
</tr>
<tr>
<td>2</td>
<td>$15.00</td>
<td>$60.00</td>
</tr>
<tr>
<td>3</td>
<td>$20.00</td>
<td>$80.00</td>
</tr>
<tr>
<td>4</td>
<td>$25.00</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

(8) **Nonelective medical expenses.** The city will pay for nonelective medical expenses, other than hospital bills (see below), provided that the city is notified and approves the expenses and services prior to their being made or delivered. The city will grant assistance for medical service only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the city’s assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his need to seek general assistance for medical expenses. The city will grant assistance for nonemergency medical services only if a physician verifies that the services are nonelective. The administrator may require a second medical opinion from a physician designated by the city at the city’s expense to verify the necessity of the services.

Notwithstanding the foregoing, the following will be considered nonelective only in exceptional circumstances which are verified by a physician of the city’s choice: chiropractic, acupuncture and/or massage therapy services.

Except in the case of a medical emergency, applicants must use available medical resources including, but not limited to, medical providers readily accessible to applicant and to minimize cost thereof to the city through the use of Medicaid providers. It is the applicant’s responsibility to apply promptly for Medicaid and to secure the services of a provider who accepts Medicaid reimbursement.

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

Any person who cannot pay his 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 thirty (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 administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant’s eligibility, the city 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 applies by including the amount of the bill in the applicant’s monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 13-7(c) above.

(10) **Dental.** The city will pay for nonelective medically necessary dental services only. If full mouth extractions are necessary, the city will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant’s ability to pay.

(11) **Eye care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources.

(12) **Telephone charge.** Payment for a basic telephone charge will only be authorized if a telephone is necessary for medical reasons as verified by a physician.

(13) **Burials/cremations.** Burial services will be provided only in instances where there is no other person or agency to perform the function.

a. If neither relatives nor other persons, the state, federal or other sources will cover the burial expense, the city will pay a maximum of seven hundred dollars ($700.00) for burial, with an additional payment of one hundred forty-five dollars ($145.00) for a cement burial vault and the cost of a lot in one (1) of the city’s cemeteries. Any benefit which is available must be deducted from the maximums which the city will pay.

b. Application for burial expenses must be made by the closest relative available before the burial takes place to be eligible for city assistance. When there is no relative, the city will provide assistance only if written notification is received prior to burial or by the end of the next business day following the funeral director’s receipt of the body, whichever is earlier.

c. A decision on any application for assistance with burial expenses need not be rendered until the administrator has verified that no relative or other resource is available to pay for the burial costs, but in no case shall the
decision be rendered more than ten (10) days after receiving an application. The father, mother, grandfather, grandmother, children or grandchildren, by consanguinity, living within or owning real or tangible property within the state shall be responsible for burial costs for the eligible person in proportion to their respective abilities.

(14) Property taxes. In the event an applicant requests assistance with his property taxes, the administrator will inform the applicant that there are two (2) procedures to request that relief, i.e., the poverty abatement process under 36M.R.S.A. § 841(2) and through general assistance. If the applicant chooses to seek property tax assistance through general assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

a. The property tax in question is for the applicant’s place of residence; and
b. There is a tax lien on the property which is due to mature within sixty (60) days of the date of application; and
c. The applicant uses all available resources for property tax relief.

(15) Transportation. Applicants are expected to utilize all resources available for transportation, including walking reasonable distances. Assistance for transportation will be granted only if necessary to pursue a bona fide job offer or as a work-related expense or if determined to be necessary to the applicant’s health and safety and transportation cannot be obtained from any other source or through any other means. Resources in the city which minimize the need for transportation assistance must be utilized. The amount and type of assistance granted will be the minimum necessary to alleviate the need.

(16) Other assistance. Assistance may be granted with household items only upon a determination by the administrator that such assistance is essential to the applicant’s health and safety and cannot be obtained from any other source or through any other means. The amount and type of assistance will be the minimum necessary to alleviate the need.

(Ord. No. 399092, 6-3-92)

Sec. 13-10. Forms of assistance.

All assistance will be by purchase order, voucher or direct payments, and only for those items of basic need for which the applicant seeks assistance. Assistance will be provided in the following forms:

(1) Food: City voucher;

(2) Rent: Paid directly to landlords. No rent will be paid in advance;

(3) Fuel: Paid directly to the vendor;
(4) **Mortgage:** Paid directly to the mortgage;

(5) **Utilities:** Paid directly to the utility;

(6) **Clothing:** By purchase order from used clothing or other retail store;

(7) **Medication:** By purchase order to druggist;

(8) **Nonfood:** By purchase order to grocery or department store; and

(9) **Medical, dental, eye care, burial/cremation:** Paid directly to the agency or person rendering the service.

(Ord. No. 399-92, 6-3-92)

**Sec. 13-11. Recovery of expenses.**

The city may recover general assistance granted to a recipient from relatives or others pursuant to state law and to the extent of their liability thereunder. Further, the city may claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to the recipient under the worker’s compensation act or similar law of any other state. Such lien shall be claimed pursuant to state law. The city will be reimbursed for general assistance payments to a recipient who receives Supplemental Security Income pursuant to state and federal law and regulation.

(Ord. No. 399-92, 6-3-92)

**Sec. 13-12. Appeals.**

(a) **Grant, denial, reduction or termination to be communicated in writing; right to a hearing.** Any action relative to the grant, denial, reduction, suspension or termination of relief provided under this chapter must be communicated to the applicant or recipient in writing. The decision shall include the specific reason or reasons for that action and shall inform the person affected of his right to a hearing, the procedure for requesting such a hearing, the right to notify the state department of human services and the available means for notifying such department, if he believes that the city has acted in violation of this chapter. All proceedings relating to the grant, denial, reduction, suspension or termination of relief provided under this chapter are not public proceedings under 1 M.R.S.A., Chapter 13 unless otherwise requested by the person aggrieved.

(b) **Right to a fair hearing.** Any person aggrieved by a decision, act, failure to act or delay in action concerning his application for general assistance under this chapter shall have the right to an appeal. If a person’s application has been approved, there shall be no revocation of general assistance during the period of entitlement until that person has been provided notice and an opportunity for hearing as provided in this section. After twenty-four (24) hours from the time a person applies for general assistance, or immediately after receiving notice that an approved application has been revoked, that person may request an appeal within five (5) working days of the date of expiration of the
twenty-four (24) hours, or receipt of the notice of revocation. A hearing shall be held by
the fair hearing officer within five (5) working days following the receipt of a written
request by the person aggrieved for an appeal. The hearing will be conducted by a fair
hearing officer. In no event may an appeal be held before a person or body responsible
for the decision, act, failure to act, or delay in relating to the person aggrieved.

The person requesting the appeal shall be afforded the right to confront and cross-
examine any witnesses against him, present witnesses in his own behalf and be
represented by counsel or other spokesman, and be advised of these rights in writing.
The decision of such an appeal shall be based solely on evidence adduced at the hearing.
The person requesting the appeal shall, within five (5) days after the hearing, be furnished
with a written decision detailing the reasons for that decision. When any decision by a
fair hearing officer or court authorizing assistance is made, the assistance shall be
provided within twenty-four (24) hours.

No recipient who has been granted assistance in accordance with this chapter may
have that assistance terminated prior to the decision of the fair hearing officer. In the
event of any termination of assistance to any recipient, the dependents of the person may
still apply for and, if eligible, receive assistance.

(c) *Fair hearing officer.* The city council shall appoint persons to act as fair
hearing officers. The terms of office shall not exceed three (3) years, and such persons
shall serve without compensation. Fair hearing officers shall be residents of the city
during their tenure. The overseer shall designate which fair hearing officer shall hold the
hearing and decide each appeal in accordance with the provisions of 22 M.R.S.A. § 4322.
Whenever the overseer determines that no designated hearing officer can act within the
time frames required by said Section 4322 with respect to any pending appeal, he or she
shall request that the city manager hear the appeal or designate a person, who was not
responsible for the decision, act, failure to act, or delay that is the subject of the appeal,
which person shall then hear and decide the appeal.

(d) *Duties of fair hearing officer.* Each fair hearing officer or alternate shall
exercise the powers granted to a fair hearing authority pursuant to this chapter and 22
M.R.S.A., Chapter 1161.

(e) *Time of hearing.* Upon receipt of a written request for a hearing, the
administrator shall arrange for the hearing to take place. The administrator will inform
the appellant of the date, time and place of the proceeding.

(f) *Review procedure.* All reviews by a fair hearing officer will be conducted in
accordance with the following:

1. Unless otherwise requested by the appellant, the proceeding will be
conducted privately and open only to:

   a. The appellant, witness and legal counsel;
b. The overseer, administrator, the casework supervisor or caseworkers, the city manager or his or her designee, witnesses, members of the city council and legal council.

(2) The proceedings will be conducted informally without technical rules of evidence, but subject to the requirements of due process.

(3) The appellant shall present his position with the aid of legal counsel or witnesses, if the appellant so desires.

(4) The administrator shall then present his position with the aid of legal counsel or witnesses, if he so desires.

(5) All participants shall be given an opportunity to:

a. Present oral or written testimony or documentary evidence;
b. Offer rebuttal;
c. Question witnesses on matters germane to the issue at hand;
d. Examine all evidence presented at the hearing.

(g) Decisions. Upon completion of the proceeding, the fair hearing officer shall prepare a written notice of his decision which will contain the following information:

(1) A statement of the issues;
(2) Relevant evidence presented by any participant at the proceeding;
(3) Pertinent provisions of the general law and this chapter relating to the fair hearing officer’s decision;
(4) The fair hearing officer’s decision and the reason for it.

(h) Appeal to superior court. Copies of the notice of decision will be provided forthwith to the appellant. When any decision by a fair hearing officer or a court authorizes assistance, that assistance will be provided within twenty-four (24) hours of notice of the decision to the city. The decision shall also state that, if the appellant is dissatisfied with the fair hearing officer’s decision, he or she may seek judicial review under Rule 80B, Maine Rules of Civil Procedure. The city will keep and provide a sufficient record of the fair hearing for the court review.

(Ord. No. 399-92, 6-3-92)
Chapter 13.4

TOWN OF LONG ISLAND

HARBOR AND WATERFRONT ORDINANCE
AMENDED MAY 4, 2002

Sec. 13.4-1. Purpose.

The Town of Long Island and Waterfront Ordinance is hereby established to regulate marine activities within the town, to ensure the safety of its property, its inhabitants and the general public, to guarantee the availability and use of a valuable public resource and to create a fair and equitable framework for administration of these goals.

Sec. 13.4-2. Authority and Administration.

Sec. 2.1 Authority.

2.1.1 This ordinance is adopted pursuant to the Home Rule Powers as provided for in Article VII-A of the Maine Constitution and 30-A M.R.S.A., Chapter 187, Subchapter IV, as the same may be amended from time to time.

2.1.2 This Ordinance is also adopted pursuant to Title M.R.S.A. Subchapter I, as the same may be amended from time to time. All provisions of Title 38 M.R.S.A. Subchapter I are adopted as part of this Ordinance, except to the extent its provisions are inconsistent with the expressed terms herein.

2.1.3 The Ordinance shall be known as the Town of Long Island Waterfront Ordinance, and shall govern the specified activities within the limits of the Town of Long Island.

Sec. 2.2 Administration.

The Board of Selectmen shall administer this ordinance.

Sec. 2.3 Severability and Separability.

Should any section or provision of this Ordinance for any reason be held as void or invalid, it shall not affect the validity of any other section or provision.
Sec. 2.4    Designation of Gender, Singular and Plural.

2.4.1 Whenever the masculine gender is used herein, it shall be construed to include the feminine.

2.4.2 Whenever the singular is used herein, it shall be construed to include the plural.

Sec. 13.4-3    Definitions-Regulation and Administrative Processes.

Sec. 3.1    Abandoned Moorings.

A mooring in waters classified as Harbor and/or Anchorage shall be considered abandoned unless it is used by the owner or his family during the 90 day period July 1 – October 1, or unless the owner has notified the Town in writing of his intent to not use the mooring, registers the mooring in accordance with Section 4, and grants permission for the use of the mooring to be assigned to others. Any mooring which is unused for 365 days by the owner or his family shall be considered abandoned when the Harbormaster decides it is abandoned.

Sec. 3.2    Abandoned Vessel.

Any vessel which is unattended and determined by the Harbormaster to constitute a danger to navigation, or which is sinking or already sunk, or which is stranded on any property without the permission of the owner of the property.

Sec. 3.2.1    Menace to Navigation (Adopted May 14, 2005)

The Harbormaster is authorized to take whatever action is necessary and appropriate to remove any menace to navigation within the waters of the Town of Long Island. This shall include, but is not limited to, contracting for removal of the menace at the expense of the Town of Long Island, another governmental entity, or the person responsible for the creation of the menace.

Sec. 3.3    Waters of Long Island.

All waters below the ordinary high tide mark within the legal boundaries of the Town of Long Island as incorporated on July 1, 1993 and extending seaward three miles from the shoreline.

Sec. 3.4    Harbormaster.

The person appointed to serve as such by the Board of Selectmen.

Sec. 3.5    Mooring.
An anchoring device not carried aboard a vessel as regular equipment.

Sec. 3.6  **Rental Mooring.**

A mooring which is leased or rented to a person other than the holder of the mooring registration.

Sec. 3.7  **Non-Resident.**

Any individual who does not maintain a legal residence within the Town of Long Island.

Sec. 3.8  **Non-Resident Taxpayer.**

A non-resident who pays real estate taxes to the Town of Long Island.

Sec. 3.9  **Resident.**

An individual who maintains a legal residence in the Town of Long Island.

Sec. 3.10  **Town Float.**

A float owned and maintained by the Town of Long Island.

Sec. 3.11  **Town Landing.**

An area of land contiguous to the waters of Long Island which is owned by the town of which is impressed with a public right of access.

Sec. 3.12  **Vessel.**

A vessel shall include boats of all sizes powered by sail, machinery, by hand or by tow; scows; dredges; barges; and water craft of any kind.

Sec. 3.13  **Anchorage Areas.**

Areas within the waters of the Town of Long Island specified by the Board of Selectmen for temporary use for the mooring for time periods in excess of twenty four hours of vessels in excess of one hundred and fifty (150) feet in length using anchorage devices normally carried aboard those vessels.

Sec. 3.14  **Anchorage.**
Occupancy of any space within the waters of Long Island by a vessel while at anchor whether or not the anchoring device is resting on lands underwater within the boundaries of the Town of Long Island.

Sec. 3.15  Harbor Use.

Holding a mooring permit, boating within, traversing or anchoring in the waters of the Town of Long Island, rental or occupancy of public or private berths in the Town.

Sec. 3.16  Oil.

Any and all petroleum products and their by-products of any kind and in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, oil mixed with other wastes and crude oil.

Sec. 13.4-4.  Registration of Moorings.

Sec. 4.1  Registration.

All moorings located below low water in waters of Long Island shall be registered with the Town Clerk. Permits will be issued for the calendar year from January 1 through December 31. Any applicant who completes re-registration by March 1 of any year shall be given preference for the location occupied by that registrant’s mooring the prior year, unless the Harbormaster determines that a demonstrated need for that site has been shown by someone higher on the list of priorities in section 4.4.3 below. In such an event, the Harbormaster will provide a mutually agreeable site and relocate the mooring at the expense of the mooring owner taking over the old site.

Sec. 4.2  Registration Fees. (Amended May 12, 2007)

Registration fees to be reviewed annually and adjusted, if necessary, by the Board of Selectmen.

Personal use by resident or 
Non-resident taxpayer:________________________$30.00 

Personal use by non-resident:________________________$60.00

Rental use:________________________$60.00

4.2.1  Upon registration, the Town Clerk will issue a registration number which is to be painted on to the mooring float in three inch high characters; i.e., L1005, L303, etc..
Sec. 4.3  **Unregistered Moorings.**

If any mooring in the waters of Long Island is unregistered after May 1, the Town Clerk or Harbormaster shall notify the owner and if registration is not completed within ten (10) days of notice, the Harbormaster may remove the mooring at the expense of the mooring owner plus a fee of $100, to be paid to the Town.

Sec. 4.4  **Assignment of Mooring Space.**

4.4.1 Registered moorings shall be assigned locations by the Harbormaster on a first-come, first-served basis as space permits with due regard to navigation and the safety of persons and property, and, where feasible, the prior year location.

4.4.2 If there is insufficient space to assign allocations for all registered moorings in the location requested, the applications not assigned mooring locations shall be placed on a waiting list which will be maintained by the Town Clerk, posted and available for inspection in the Town Office.

4.4.3 As space in Harbors and Anchorages of the waters of Long Island becomes available, assignments of mooring locations shall be made from the waiting list in accordance with the terms of 38 M.R.S.A. (7A) (2) on the basis of the date of the applicants request and with the following priorities:

4.4.3.1 Resident Commercial Fisherman;
4.4.3.2 Resident Taxpayer;
4.4.3.3 Non-Resident Taxpayer;
4.4.3.4 Resident;
4.4.3.5 Commercial Non-Fishery;
4.4.3.6 Non-Resident

Not withstanding the above, Resident and Non-Resident taxpayers who are owners of shoreline property contiguous to the location where a mooring (is adjacent to) is requested shall have priority for a maximum of one mooring space adjacent to their onshore property. Additional moorings requested by Resident and Non-Resident taxpayers shall be assigned as in 4.4.3 above.

Sale of a mooring to a second party, when a waiting list exists, shall not convey the assigned location, unless sold to the person holding the next assignment on the mooring list. The Harbormaster shall be notified of all sales of moorings in Harbors and Anchorages.

4.4.4 When any mooring within the waters of Long Island is located such that danger to other property is inherent due to its position, the Harbormaster shall be responsible for relocating the mooring or moorings involved whenever he is notified of the danger. Such relocation shall be handled in accordance with the priority list in Section 4.4.3, and the expense shared equally by the mooring owners involved.
4.4.5 Effective July 1, 2005 all mooring balls will be white with a blue stripe amidships.

4.4.6 Mooring applicants are responsible to construct their mooring in a manner suitable for its intended purpose.

4.4.7 Permit number must be no less than (3) three inches in height, black paint or quality adhesive lettering.

4.4.8 Catch storage moorings will be considered temporary moorings and be registered at Town Hall with no fee. These moorings will be assigned a number by the Harbor Master and identified with the letter “S”.

Sec. 4.5 Removal of Abandoned Moorings.

The Selectmen shall notify the owner of an abandoned mooring of his duty to remove the mooring within thirty (30) days of the date of notice. If the mooring is not removed or re-registered within the applicable thirty (30) day period, it may be removed by the Harbormaster at the expense of the owner in accordance with the provision of 38 M.R.S.A. § 4. Nothing in this Section shall impede enforcement (Section 7.1.7) or collection of penalties (Section 7.2).

Sec. 4.6 Removal of Abandoned Vessels.

Except where the vessel constitutes an immediate hazard to public health, safety and welfare, the Selectmen shall notify the owner of an abandoned vessel of his duty to remove any abandoned vessel within thirty (30) days of the date of notice. If the vessel is not removed within the applicable thirty (30) day period, it may be removed by the Harbormaster at the expense of the owner in accordance with the procedures of M.R.S.A. §5. Where the Selectmen determine that the abandoned vessel constitutes a threat to public health, safety and welfare, they may authorize the Harbormaster to remove the vessel immediately and without notice at the expense of the owner. Nothing in this Section shall prevent the Town from enforcing Section 7.1.5 or from collection of penalties (Section 7.2).

Sec. 4.7 Anchorage.

4.7.1 Any vessel desiring temporary anchorage within the waters of Long Island for periods in excess of twenty four (24) hours shall notify the Harbormaster in advance for permission and location of the anchorage to be assigned. Notification requirements are as follows:

4.7.1.1 Vessels less than one hundred fifty (150) feet in length – Notice in advance up to the time of arrival.
4.7.1.2 Vessels one hundred fifty (150) feet in length or greater – Notice a minimum of forty eight (48) hours in advance of arrival.

4.7.2 Anchorage fees – Payable to the Town of Long Island.

4.7.2.1 Anchorage for vessels less than one hundred fifty (150) feet in length:
- Placement of anchoring device on submerged lands – No fee.
- Anchorage, Twenty four (24) hours or less – No fee.
- Anchorage, More than twenty four (24) hours - $10 per day.

4.7.2.2 Anchorage for vessels greater than one hundred fifty (150) feet in length:
- Placement of anchoring device on submerged lands - $100.
- Anchorage for each day or part of a day - $10.

Sec. 4.8 Harbor Use.

A major occupation in the Town of Long Island is in the fishing industry. Any activity within the waters of Long Island that would have the potential to threaten this livelihood and the health, safety and welfare of its residents shall first be approved by the Town of Long Island. Any vessel desiring to conduct activities within the waters of Long Island that may injure, damage, disrupt the normal activities or occupations or otherwise harm the residents of Long Island or their property shall first provide notice and receive permission from the Town of Long Island a minimum of forty eight (48) hours in advance. Such activities may include but not be limited to operations such as oil spill training and spill boom deployment exercises, large scale fish seining, construction within the waters of Long Island, dredging and salvaging.

Sec. 13.4-5 Harbor and Waterfront Harbor Committee.

Sec. 5.1 Committee Make-up.

The Harbor Committee shall be comprised of 5 people each of whom is either a resident tax-payer, a non-resident taxpayer, or a resident. The purpose of the Harbor Committee is to oversee development and activities on the waterfront, and to make recommendations to the Board of Selectmen.

Sec. 13.4-6 The Harbormaster, Qualifications and Salary.

Sec. 6.1 The Harbormaster shall be appointed by the Board of Selectmen and shall serve in that capacity until discharged by the Board of Selectmen or until resignation.
Sec. 6.2  Appeal to Selectmen.

Any person aggrieved by a decision of the Harbormaster may appeal the decision to the Board of Selectmen for review. The Committee Board of Selectmen shall make a decision.

Sec. 6.3  Salary.

The salary of the Harbormaster shall be recommended by the Board of Selectmen and approved by vote at the Annual Town Meeting.

Sec. 6.4  Management.

The Harbormaster shall manage the Floats, Docks, Ramps, Moorings and Landings that are owned by the Town and shall make recommendations regarding their operation, use and maintenance to the Board of Selectmen.

Sec. 6.5  Meetings.

The Harbormaster shall regularly attend meetings of the Harbor Committee, but shall not be a member of the Committee. He shall keep the Committee fully informed of all his activities, problems encountered, solutions effected, and activities which have required his special attention. He shall also provide information on matters pertaining to the Committee’s duties and responsibilities. The Harbormaster shall also attend Selectmen’s meetings when necessary in order to report any problems or changes needed.

Sec. 6.6  Records.

The Harbormaster shall maintain a permanent bound record in which he shall record all complaints received (both written and oral), the date and time received, the response made to the complaint, and the date and time of such response. This record shall be maintained in ink.

Sec. 6.7  Enforcement.

The Harbormaster shall have the authority and responsibility to enforce the Rules and Regulations contained in this Ordinance and the provisions of 38 M.R.S.A. Subchapter 1.

Sec. 13.4-7. Rules and Regulations.

Sec. 7.1  Operation of Vessels.

7.1.1  It shall be unlawful to operate a vessel in the waters of Long Island so as to endanger persons or property.
7.1.2 It shall be unlawful to operate a vessel in a manner which creates excessive wake/wake-wash.

7.1.3 It shall be unlawful to establish or maintain an unregistered mooring or to maintain a temporary anchorage within the waters of the Town of Long Island without authorization.

7.1.4 It shall be unlawful to part a motor vehicle so as to block or restrict access to a Town Landing.

7.1.5 It shall be unlawful to abandon a vessel within the waters or upon the shoreline of Long Island.

7.1.6 It shall be unlawful to abandon lobster, crab and shellfish traps, cars or crates within the waters of Long Island.

7.1.7 It shall be unlawful to abandon a mooring within the waters of Long Island.

7.1.8 (Replaced May 14, 2005) The “main float”, located at Marriner’s Landing is to be used for loading and unloading of passengers and cargo and official public safety vessels only. Therefore, it shall be unlawful to leave a vessel unattended at the “main float” at Marriner’s Landing for any length of time. It shall be unlawful to leave a vessel at any Town wharf, dock or float (with the exception of the “main float”) for a period exceeding two (2) hours without the permission of the Harbormaster.

(a) Penalties for violation of Sec. 7.1.8:
   1. Exceeding Posted Time Limit - $25.00
   2. Leaving an unattended vessel at main float - $50.00

7.1.9 It shall be unlawful to refuse to obey any lawful Order of the Harbormaster.

7.1.10 It shall be unlawful for any vessels at anchor in or passing through the waters of Long Island to violate any laws, rules or regulations of any local, state or federal agency with regard their operation or any overboard discharges, cargo transfers, lading of dangerous cargo, emissions to the atmosphere or any other activity deemed unsafe to the residents of the Town of Long Island.

7.1.11 It shall be unlawful to transfer oil in bulk in quantities in excess of 4,200 gallons, including bunker fuel, between vessels within the waters of Long Island without first deploying sufficient oil spill containment boom around the area of the transfer to contain any potential spill. Should the oil spill containment boom not be able to be secured sufficiently to the vessels to prevent any potential spill from escaping the boom, then sufficient boom must be deployed to encircle both vessels in their entirety and held in such a manner that will prevent any contained oil from escaping until cleanup is completed.
7.1.12 It shall be unlawful for any large vessel, greater than one hundred fifty (150) feet in length to enter and transit either through he waters of Long Island or to and from an anchorage within the waters of Long Island without first providing notice forty eight (48) hours in advance so that adequate notice may be given fishermen or others who may be affected in order to protect or relocate any fishing equipment, mooring or other equipment that may be endangered by such transit.

7.1.13 It shall be unlawful for barges in tow to be moved within or through the waters of Long Island on long tow lines such that the towed vessel cannot be directly and promptly slowed, turned or stopped should it become necessary in an emergency. Such non-powered vessels shall either be directly secured to the towing vessel and be close hauled or be held fore and aft using a second towing vessel to provide adequate restraint and control in the event of an emergency.

7.1.14 It shall be unlawful to transfer oil cargoes between vessels, including bunker fuel, without first providing notice to the Town of Long Island a minimum of twelve (12) hours in advance.

7.1.15 It shall be unlawful to conduct activities as outlined in 4.8 above without first receiving permission from the Town of Long Island.

Sec. 7.2 Violation of Ordinance.

The violation of any rule or regulation established by the Ordinance shall be a civil violation punishable by a fine not to exceed $250. For purposes of this Section, each day that a violation continues shall be considered a separate offense.

Sec. 7.3 Enforcement of Ordinance.

All Law enforcement officers of the Town of Long Island and the Sate of Maine, including Harbormasters and their deputies, shall have the authority to enforce this Ordinance and, in the exercise thereof, shall have the authority to stop and board any vessel found in violation of this Ordinance. It shall be unlawful for any operator of such vessel to fail to stop upon request of such officer and violation shall be punishable as provided in Title 30 M.R.S.A. § 4452.

Sec. 7.4 Notifications.

Notice of vessel movements, cargo transfers and other activities specified herein where notices to the Town of Long Island are required shall be directed as follows:

- Primary contact – Harbormaster, Town of Long Island

- Secondary contact – Long Island Town Clerk

-Third contact – any member of the Board of Selectmen
Making contact with any of the above shall satisfy the notification requirements specified herein.

Sec. 13.4-8  Shellfish Conservation Ordinance. (Rescinded by State 09/26/07)


9.1  Definitions.

The following terms shall have the following meanings for purposes of this ordinance:

A.  Floating Business. A "floating business" is the use or occupancy of a raft, hull, barge or other vessel floating on the waters adjacent to and within the jurisdiction of the Town of Long Island for any commercial operation such as, but not limited to, the providing of personal services, retail operations, restaurants, drinking establishments, galleries, performing arts, studios and other such service or business operation. Fishing vessels used primarily for the harvesting, processing, transport or storage of fish or seafood products or vessels used for dredging or other navigational purposes are not floating businesses as defined herein.

B.  Houseboat. Houseboat means the use or occupancy of a raft, hull, barge or other vessel floating on the waters adjacent to and within the jurisdiction of the Town of Long Island for human habitation, living quarters, sleeping areas, or for cooking or sanitary facilities or for any other similar use or residential purposes associated with a "Dwelling" or "Dwelling Unit" as defined under the Town of Long Island Land Use Ordinance, Chapter 14, whether such use is temporary or permanent.

9.2  Prohibition and Requirements for Floating Businesses and Houseboats. Except as specifically excepted hereafter and notwithstanding any provision of this chapter or other provisions of the Town of Long Island Code of Ordinances to the contrary, floating businesses or houseboats are prohibited from mooring or anchoring in the waters under the jurisdiction and control of the Town of Long Island unless the floating business or houseboat conforms with all of the following requirements:

A.  The floating business or houseboat must be permitted and in compliance with all applicable sanitation, navigational, building and land use standards under the Town of Long Island Code of Ordinances and under state and federal law;

B.  For all times that a floating business or houseboat is anchored or moored within the waters under the jurisdiction and control of the Town of Long Island it must be serviced by a permitted and permanent float, dock or slip from which the floating business or houseboat may be directly boarded from land;

C.  The floating business or houseboat must have a minimum of 875 square feet of floor space of habitable area;
D. For all times that a floating business or houseboat is anchored or moored within the waters under the jurisdiction and control of the Town of Long Island the floating business or houseboat must be serviced by permanent, year round and all-weather electric service that is in compliance with state and local electrical codes; and

E. For all times that a floating business or houseboat is anchored or moored within the waters under the jurisdiction and control of the Town of Long Island the floating business or houseboat must have legal rights to, and at all times must maintain, parking sufficient to satisfy the standards and requirements of the Town of Long Island Code of Ordinances.

9.3 Exception. The requirements set forth in Section 9.2 do not apply to floating pleasure vessels that might otherwise be defined as a houseboat hereunder if the vessel occupies the waters within the jurisdiction of the Town of Long Island only temporarily and for three or fewer consecutive days.

Sec. 13.4-10.1 Aquaculture (Adopted May 14, 2005)

All aquaculture ventures (mussel rafts, oyster farming, salmon pens, etc.) must be brought before the Town Selectmen, and the Harbormaster, who shall hold a public hearing on the proposed venture. All aquacultural ventures within the tidal waters of the Town of Long Island require prior approval from the Harbormaster subject to location, navigational safety, area and compatibility and to alleviate any problems regarding commercial or recreational fishing and/or navigation. No aquaculture venture involving rafts, pens or other structures within the legal boundaries of Long Island, Maine may proceed without the approval of the Harbormaster. The Harbormaster may require that the person or organization proposing the aquaculture venture to have all applicable local, State and Federal permits before granting his/her approval.

All structures associated with the approved aquacultural activities shall be maintained in good and serviceable condition.
Chapter 13.5

HUMAN RIGHTS*

Art. I. In General, Sec. 1305-1 – 13.5-20.
Art. II. Discrimination Based on Sexual Orientation, Sec. 1305-21 –13.5-34
Div. 1. Generally, Secs. 13.5-21, 13.5-22
Div. 2. Fair Employment, Secs. 13.5-23, 13.5-24
Div. 3. Fair Housing, Secs. 13.5-25, 13.5-26
Div. 4. Public Accommodations, Sec. 13.5-27
Div. 5. Fair Credit Extension, Secs. 13.5-27
Div. 6. Procedure in Superior Court, Secs. 13.5-30 – 13.5-33
Div. 7. Exceptions, Sec. 13.5-34

*Editor’s note—Ord. No. 357-92, adopted May 11, 1992, enacted new provisions, relative to human rights, to be included as chapter 13-A; such provisions have been codified as chapter 13.5 at the discretion of the editor.

Cross reference—Administration, Ch 2; offenses, miscellaneous provisions, Ch 17.

ARTICLE I. IN GENERAL

Secs. 13.5-1 – 13.5-20. Reserved.

ARTICLE II. DISCRIMINATION BASED ON SEXUAL ORIENTATION

DIVISION 1. GENERALLY

Sec. 13.5-21. Legislative findings and statement of policy.

The council finds that:
(1) The population of the city consists of people of every sexual orientation, some of whom are discriminated against in employment opportunities, housing, access to public accommodations and in the extension of financial credit;

(2) Neither the federal government, nor the state, nor the city currently has any law prohibiting discrimination based on sexual orientation;
There has been a disturbing increase in the number of violent incidents within the city in which individuals have been attacked because of their sexual orientation; and

The lack of legal protection for individuals discourages them from publicizing acts of discrimination out of fear of reprisal.

Therefore, in order to protect the public health, safety and welfare, it is declared to be the policy of this city to prevent discrimination in employment, housing, access to public accommodations or in the extension of credit, on account of sexual orientation.

(Ord. No. 357-92, 5-11-92)

Sec. 13.5-22. Definitions.

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

**Discriminate.** “Discriminate” includes, without limitation, segregate or separate.

**Employee.** “Employee” does not include any individual employed by his parents, spouse or child.

**Employer.** “Employer” includes any person in this city employing any number of employees, whatever the place of employment of such employees, and any person outside this city employing any number of employees whose usual place of employment is in this city; any person acting in the interest of any employer, directly or indirectly; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees; but does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of the same religion, sect or fraternity.

**Employment agency.** “Employment agency” includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees; it includes, without limitation, placement services, training schools and centers, and labor organizations, to the extent that they act as employee referral sources; and it includes any agent of such person.

**Housing accommodation.** “Housing accommodation” includes any building or structure or portion thereof, or any parcel of land developed for occupancy, for residential purposes excepting:

- The rental of a one-family unit of a two-family dwelling, one (1) unit of which is occupied by the owner;
(2) The rental of not more than (4) rooms of a one-family dwelling which is occupied by the owner;

(3) The rental of any dwelling owned, controlled or operated for other than a commercial purpose by a religious corporation to its membership unless such membership is restricted on account of sexual orientation.

**Person.** “Person” includes one (1) or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, and includes the city and all agencies thereof.

**Place of public accommodation.** “Place of public accommodation” means any establishment operated by a public or private entity, that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public, regardless of where goods or services are provided, a facility, operated by a public or private entity, whose operations fall within at least one of the following categories, regardless of where goods or services are provided. This definition shall be liberally construed to accomplish the purpose of the purpose of the ordinance. The ordinance shall apply to the following establishments which are included for the purpose of illustration only and not by way of limitation:

a. An inn, hotel, motel or other place of lodging, whether conducted for the entertainment of accommodation of transient guests or those seeking health, recreation or rest;

b. A restaurant, eating house, bar, tavern, buffet, saloon, soda fountain, ice cream parlor or other establishment serving or selling food or drink;

c. A motion picture house, theater, concert hall, stadium, roof garden, airdrome or other place of exhibition or entertainment;

d. An auditorium, convention center, lecture hall or other place of public gathering;

e. A bakery, grocery store, clothing store, hardware store, shopping center, garage, gasoline station or other sales or rental establishment;

f. A Laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, dispensary, clinic bathhouse or other service establishment;

g. All public conveyances operated on land or water or in the air as well as a terminal, depot or other station used for specified public transportation;
h. A museum, library, gallery or other place of public display or collection;

i. A park, zoo, amusement park, race course, skating rink, fair, bowling alley, golf course, golf club, country club, gymnasium, health spa, shooting gallery, billiard or pool parlor, swimming pool, seashore accommodation or boardwalk or other place of recreation, exercise or health;

j. A nursery, elementary, secondary, undergraduate or postgraduate school or other place of education;

k. A day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment;

l. Public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants;

m. A municipal building, courthouse, town city hall or other establishment of the State or a local government; and

When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subchapter, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for the residential purposes is covered by this subchapter. The covered portion of the residence extends to those elements used to enter the place of public accommodation, and those exterior and interior portions of the residence available to or used by customers or clients, including restrooms.

Real estate broker and salesman. “Real estate broker” and “real estate salesman” have the same definitions as are given respectively in Title 32, Section 4001, subsections 2 and 3 of the Maine Revised Statutes Annotated; but include all persons meeting those definitions, whether or not they are licensed or required to be licensed.

Sexual orientation. “Sexual orientation” means having an orientation for, or being identified as having an orientation for, heterosexuality, homosexuality of bisexuality.

(Ord. No. 357-92, 5-11-92)

DIVISION 2. FAIR EMPLOYMENT

Sec. 13.5-23. Unlawful employment discrimination.

It shall be unlawful employment discrimination, in violation of this article, except where based on a bona fide occupational qualification:
(1) For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of sexual orientation or because of such reason to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment, or in recruiting of individuals for employment or in hiring them, to utilize any employment agency which such employer knows, or has reasonable cause to know, discriminates against individuals because of their sexual orientation.

(2) For any employment agency to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of sexual orientation, or to comply with an employer’s request for the referral of job applicants, if such request indicates whether directly or indirectly that such employer will not afford full an equal employment opportunities to individuals regardless of their sexual orientation.

(3) For any labor organization to exclude from apprenticeship of membership, or to deny full and equal membership rights, to any applicant for membership, because of sexual orientation or because of such reason to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate in any manner with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of such labor organization or by a collective labor agreement or other contract, or to fail or refuse to classify property or refer for employment, or otherwise to discriminate against any member because of such sexual orientation, or to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(4) For any employer or employment agency or labor organization, prior to employment or admission to membership of any individual, to:

a. Elicit or attempt to elicit any information directly or indirectly pertaining to sexual orientation except where some privileged information is necessary for an employment agency or labor organization to make a suitable job referral;

b. Make or keep a record of sexual orientation;

c. Use any form of application for employment or personnel or membership blank containing questions or entries directly or indirectly pertaining to sexual orientation;

d. Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon sexual orientation;
e. Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of sexual orientation; or

(5) For an employer or employment agency or labor organization to discriminate in any manner against any individual because they have opposed any practice which would be a violation of this article, or because they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this article.

(Ord. No. 357-92, 5-11-92)

Sec. 13.5-24. Not unlawful employment discrimination.

It shall not be unlawful employment discrimination:

(1) Records. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying them, provided such record is intended and used in good faith solely for such identification, and not for the purpose of discrimination in violation of this article.

(2) Required records. To record any data required by law, or by the files and regulations of any state of federal agency, provided such records are kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this article.

(Ord. No. 357-92, 5-11-92)

DIVISION 3. FAIR HOUSING

Sec. 13.5-25. Unlawful housing discrimination.

It shall be unlawful housing discrimination, in violation of this article:

(1) For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the sexual orientation of any prospective purchaser, occupant or tenant of such housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual such housing accommodation because of sexual orientation of such individual; or to issue any advertisement relating to the sale, rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon sexual orientation; or to discriminate against any individual because of sexual orientation in the price, terms, conditions or privileges of the sale, rental or lease If any such housing accommodations or
in the furnishing of facilities or services in connection therewith, or to evict or attempt to evict any tenant of any housing accommodation because of sexual orientation;

(2) For any real estate broker or real estate sales person, or agent of one (1) of them, to fail or refuse to show any applicant for a housing accommodation any such accommodation listed for sale, lease or rental. Because of sexual orientation of such applicant or of any intended occupant of such accommodation, or to misrepresent for the purpose of discriminating on account of sexual orientation of such applicant or intended occupant the availability or asking price of a housing accommodation listed for sale, lease or rental; or for such a reason to fail to communicate to the person having the right to sell or lease such housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of sexual orientation of such applicant or of any intended occupant of the housing accommodation, or to make or cause to be made any written or oral inquiry or record concerning the sexual orientation of any such applicant or intended occupant, or to accept for listing any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their sexual orientation, or when he knows or has reason to know that the person having the right to sell or lease such housing accommodation has made a practice of such discrimination since July 1, 1972; or

(3) For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of such person, to make or cause to be made any oral or written inquiry concerning the sexual orientation of any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodations; or to discriminate in the granting of such financial assistance, or in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance, against any applicant because of the sexual orientation of such applicant or of the existing or prospective occupants or tenants.

(Ord. No. 357-92, 5-11-92)

Sec. 13.5-26. Application.

Nothing in this article shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishings of facilities or services in connection therewith which are not based on the sexual orientation of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this article
contained shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations or specifications for the granting of such loans or financial assistance which are not based on the sexual orientation of any existing or prospective owner, lessee, tenant or occupant of such housing accommodation.
(Ord. No. 357-92, 5-11-92)

DIVISION 4. PUBLIC ACCOMMODATIONS

Sec. 13.5-27. Unlawful public accommodations.

It shall be unlawful public accommodations discrimination, in violation of this article:

(1) For any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, to directly or indirectly refuse, withhold from or deny to any person, on account of sexual orientation, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, or for such reason in any manner to discriminate against any person in the price, terms or conditions upon which access to such accommodations, advantages, facilities and privileges may depend; or

(2) For any person to directly or indirectly publish, circulate, issue, display, post or mail any written, printed, painted or broadcast communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of sexual orientation, or that the patronage or custom thereat of any person belonging to or purporting to be of any particular sexual orientation is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele thereof is restricted to members of particular sexual orientation. The production of any such written, printed, painted or broadcast communication, notice or advertisement, purporting to relate to any such place, shall be presumptive evidence in any action that the same was authorized by its owner, manager or proprietor.

(Ord. No. 357-92, 5-11-92)
DIVISION 5. FAIR CREDIT EXTENSION

Sec. 13.5-28. Unlawful credit extension discrimination.

It shall be unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of sexual orientation in any credit transaction. It shall not be unlawful credit discrimination to comply with the terms and conditions of any bona fide group credit life, accident and health insurance plan, for a financial institution extending credit to a married person to require both the husband and the wife to sign a note and a mortgage and to deny credit to persons under the age of eighteen (18) or to consider a person’s age in determining the terms upon which credit will be extended.

(Ord. No. 357-92, 5-11-92)

Sec. 13.5-29. Definitions.

As used in this division, unless the context otherwise requires, the following words shall have the following meanings:

Application for credit. “Application for credit” means any communication, oral or written, by a person to a creditor requesting an extension of credit to that person or to any other person, and includes any procedure involving the renewal or alteration of credit privileges or the changing of the name of the person to whom credit is extended.

Credit. “Credit” means the right granted by a creditor to a person to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment therefore.

Credit sale. “Credit sale” means any transaction with respect to which credit is granted or arranged by the seller. The terms includes any contract in the form of a bailment of lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the property and services involved and it is agreed that the bailee or lessee will become the owner of the property upon full compliance with his obligations under the contract.

Credit transaction. “Credit transaction” means any invitation to apply for credit, application for credit, extension of credit or credit sale.

Creditor. “Creditor” means any person who regularly extends or arranges for the extension of credit for which the payment of a finance charge or interest is required, whether in connection with loans, sale of property or services or otherwise.

Extension of credit. “Extension of credit” means any acts incident to the evaluation of an application for credit and the granting of credit.
Invitation to apply for credit. “Invitation to apply for credit” means any communication, oral or written, by a creditor which encourages or prompts an application for credit.
(Ord. No. 357-92, 5-11-92)

DIVISION 6. PROCEDURE IN SUPERIOR COURT

Sec. 13.5-30. Enforcement by civil action.

A violation of this article shall be a civil infraction and shall be enforceable in the Maine Superior Court in a civil action. Within the time limited, a person who has been subject to unlawful discrimination may file a civil action in the superior court against the person or persons who committed the unlawful discrimination.
(Ord. No. 357-92, 5-11-92)

Sec. 13.5-31. Burden of proof.

In any civil action under this article, the burden shall be on the person seeking relief to prove, by a fair preponderance of the evidence, that the alleged unlawful discrimination occurred.
(Ord. No. 357-92, 5-11-92)

Sec. 13.5-32. Actions filed under this article.

In any action filed under this article by any person:

1. Where any person who has been the subject of alleged unlawful housing discrimination has not acquired substitute housing, temporary injunctions against the sale or rental to others of the housing accommodations as to which the violation allegedly occurred, or against the sale or rental of a single housing accommodation substantially identical thereto and controlled by the alleged violator shall be liberally granted in the interests of furthering the purposes of this article, when it appears probable that the plaintiff will succeed upon final disposition of the case.

2. If the court finds that unlawful discrimination occurred, its judgment shall specify an appropriate remedy or remedies therefor. Such remedies may include, but are not limited to:

   a. An order to cease and desist from the unlawful practices specified in the order;
   b. An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;
   c. An order to accept or reinstate such a person in a union;
d. An order to rent or sell a specified housing accommodation, or one (1) substantially identical thereto if controlled by the respondent, to a victim of unlawful housing discrimination;

e. An order requiring the disclosure of the locations and descriptions of all housing accommodations which the violator has the right to sell, rent, lease or manage;

f. An order to pay in cases of unlawful price discrimination the victim thereof three (3) times the amount of any excessive price demanded and paid by reason of such unlawful discrimination; and

g. An order to pay to the complainant civil penal damages not in excess of one thousand dollars ($1,000.00) in the case of the first order under this article against the respondent, not in excess of two thousand dollars ($2,000.00) in the case of a second such order against the respondent, and not in excess of three thousand dollars ($3,000.00) in the case of a third or subsequent such order against the respondent; and

(3) The action shall be commenced not more than two (2) years after the act of unlawful discrimination complained of.

(Ord. No. 357-92, 5-11-92)

Sec. 13.5-33. Attorneys’ fees and costs.

In any civil action under this article, the court, in its discretion, may allow the prevailing party reasonable attorneys’ fees and costs.

(Ord. No. 357-92, 5-11-92)

DIVISION 7. EXCEPTIONS

Sec. 13.5-34. Exceptions.

In addition to the other exceptions and exemptions provided in this article, this article does not:

(1) Require the teaching of any particular subject in the public schools;

(2) Apply to a religious corporation, association or organization; or

(3) Require any form of affirmative action based on sexual orientation.

(Ord. No. 357-92, 5-11-92)
# TOWN OF LONG ISLAND
## Chapter 14-LAND USE ORDINANCE

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ARTICLE 1: PREAMBLE

1.1 State Law Reference: Planning, zoning and development, 30 M.R.S.A. 4501 et. seq.

1.2 Title.

1.3 Purpose. This chapter, made in accordance with a comprehensive plan, is enacted for the purpose of decreasing congestion in streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the town. This chapter is made with reasonable consideration, among other things, to the character of each zone and its peculiar suitability for particular uses and with a view to conserving and stabilizing the value of property and encouraging the most appropriate use of land throughout the community.

1.4 Jurisdiction

1.5 Zoning map. The zones in Articles 3 (Zoning District Standards) and 4 (Shoreland Zoning District Standards) are shown upon a map in one (1) sheet entitled Zoning Map of the Town of Long Island dated July 1, 1993 and upon a map entitled Shoreland Zoning Map for the Town of Long Island. Such map, with amendments, and shoreland zoning map, with amendments, are hereby adopted as part of this article and incorporated in and made a part of this chapter.

1.6 Relation to other ordinances. This chapter shall not repeal the provisions of any other ordinance relating to the use of buildings or premises; provided, however, that where this chapter imposes greater restrictions, it shall control.

1.7 Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

1.8 Separability

1.9 Effective Date: May 4, 2002

Adopted July 1, 1993
Amended:
ARTICLE 2: DEFINITIONS

Word Usage

The following words shall be defined as set forth below for use in this chapter. Definitions set forth in the building code of the town shall apply to words not herein defined. Additional definitions are contained in Article 4 (Shoreland Zoning District Standards), Article 7, subsection 7.20 (Townwide Performance Standards-Temporary Occupancy Structures) Articles 10 (Site Plan Review), Article 11 (Subdivisions), Article 12 (Floodplain) and Article 15 (Wireless Communication Facilities). Some terms are defined in more than one of the sections listed and the definitions may differ. In the event that differing definitions of a term apply to an activity the more restrictive definition shall be used. (Amended May 8, 2010)

Accessory Dwelling Unit- (Amended May 9, 2009) An efficiency or one (1) bedroom residential unit that is clearly secondary to the owner occupied residence used for purposes of housing not more than two (2) people, one or both of which must be related by blood, marriage or adoption to the primary residents, and which provides a separate living area designed and equipped with separate and complete housekeeping facilities (living area including kitchen, bath, and one (1) bedroom).

Accessory uses- Uses which are customarily incidental and subordinate to the location, function and operation of permitted uses.

Apartment house- See "multifamily dwelling."

Assembly- A joining together of completely fabricated parts to create a finished product.

Attached- Having a common wall.

Bed and Breakfast- Any establishment where the general public can stay overnight and are provided with a breakfast meal. This meal can be either a full or continental type breakfast. If an evening meal is served as well, the establishment shall be considered an eating and lodging establishment for licensing purposes. Licenses are required for anyone renting one or more room(s) and serving food.

Buildable Lot- For purposes of this article buildable lot shall mean any lot which conforms to the minimum lot size criteria as established for the relevant zone and which otherwise conforms to the requirements set forth under this article.

Building, height of- The vertical measurement from grade to the highest point of the roof beams in flat roofs; to the highest point of the roof beams or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose the level of the eaves shall be taken to mean the highest level where the
plane of the roof intersects the plane of the outside wall on a side containing the eaves.

**Campground-** *(Adopted May 14, 2005)* Any area or tract of land developed with one or more campsites to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, shelters, recreational vehicles, trailers and similar accommodations.

**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 that occurs primarily in a salt water or estuarine habitat; and/or 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 vessel-** Any watercraft used principally in a business or trade, including common carriers of passenger or freight, whether for governmental, nonprofit or emergency purposes; but not including pleasure craft used principally for recreational purposes.

**Common areas-** Portions of a lodging house which are available for use by all residents of the lodging house. Common areas shall include, but are not limited to, one (1) or more of the following: kitchens, living rooms, recreation rooms, improved basements, and finished porches. Bathrooms, stairways, hallways and storage areas shall not be counted as common areas.

**Day care facility-** A facility which provides a regular program of care and protection for children under the age of sixteen (16), for consideration, for any part of the day.

**Dwelling-** *(Amended May 5, 2001)* A building or portion thereof used exclusively for residential occupancy that is designed to be and is substantially separate from any other building or buildings except accessory buildings, including: single-family, two-family and multifamily units, but not including hotels, motels, lodging houses, sheltered care group homes or tourist homes.

**Dwelling, Multi-Family-** *(Adopted May 12, 2007)* A detached building used exclusively for the residential occupancy by two (2) or more families and containing two (2) or more dwelling units.

**Dwelling, Single Family-** *(Amended May 9, 2009)* A detached building used exclusively for the residential occupancy by one (1) family only and containing not more than one (1) dwelling unit or one (1) dwelling unit plus a single accessory dwelling unit.

**Dwelling unit-** *(Amended May 5, 2001)* One (1) or more habitable rooms with private bath, kitchen and living and sleeping facilities comprising an independent self-contained unit.

**Educational and Recreational Facilities-** *(Adopted May 14, 2005)* Structures and improvements used for the primary purpose of outdoor educational and/or recreational activities.

**Educational and Recreational Programs-** *(Adopted May 14, 2005)* Instruction and/programs that educate or offer recreational activities to program participants.
**Emergency operations**—Emergency operations shall include 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 and livestock from the threat of destruction or injury.

**Family**—Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit. A group occupying a hotel, fraternity house or sorority house shall not be considered as a family. The family may include necessary servants.

**Floor area**—A floor space enclosed by exterior or standard fire walls, exclusive of vent shafts and courts.

**Floor area ratio**—The proportion of total floor area in a development to the total land area. The ratio is calculated as follows:

\[
\frac{8,000 \text{ square feet (total floor area)}}{20,000 \text{ square feet (total land area)}} = 0.40 \text{ floor area ratio}
\]

**Forest Management Activities**—(Adopted May 14, 2005) Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, forest management or planning activities, timber stand improvement, pruning, planting or other activities promoting the regeneration of forest stands, or other similar or associated activities, but not including timber harvesting or the construction, creation, or maintenance of roads.

**Freshwater wetland**—Freshwater swamps, marshes, bogs and/or similar areas which are:

1. Of ten (10) or more contiguous acres or of less than ten (10) contiguous acres and adjacent to a surface water body except for any river, stream or brook such that, in a natural state, the combined surface area is in excess of ten (10) acres or of less than ten (10) acres that is depicted on the Shoreland Zoning Map; 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.

**Gross area**—Square footage of land area excluding areas of special flood hazard as defined in Article 12 (Floodplain Standards).

**Handicapped family unit**—A dwelling which provides living facilities for handicapped persons. A handicapped family unit may also provide counseling and support services. Staff members may also be included in the population.
**Handicapped person**—A person with a physical or mental impairment which substantially limits one (1) or more of such person's major life activities, a person with a record of having such an impairment, or a person who is regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance as defined in 21 U.S.C. Section 802.

**Health care practitioner**—A professional providing medical, therapeutic or other services relating to the diagnosis, treatment or prevention of physical or psychological disabilities.

**Home occupation**—A home occupation is a secondary and incidental use of a dwelling unit, conducted entirely within the dwelling unit by one (1) or more persons residing in the dwelling unit.

**Impervious surface**—Means any surface which does not absorb rain and includes all buildings, roads, sidewalks, parking areas, and any area paved with bricks, concrete or asphalt.

**Impervious surface ratio**—The proportion of a site covered by impervious surfaces. Landscaping islands of strips of two hundred (200) square feet or less shall be included in the calculations as impervious surfaces. The ratio is calculated as follows:

\[
\frac{5000 \text{ square feet (impervious surfaces)}}{10,000 \text{ square feet (gross land area)}} = 0.50 \text{ impervious surface ratio}
\]

**Inaccessible area**—

1. Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:
   
   a. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;
   
   b. Gullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or
   
   c. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.

2. Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.
**Individual Private Campsite—** *(Adopted May 14, 2005)*  An area of land with one or more campsites in common ownership but not associated with a Campground, and which is developed for repeated camping by a single group not to exceed ten (10) individuals in number at any time and which involves site improvements including but not be limited to gravel pads, parking areas, fireplaces, or tent platforms.

**Inn—** A building used for more or less temporary occupancy of individuals, who are lodged with or without meals, having ten (10) but no more than fifty (50) rooms. Guest rooms shall not contain separate kitchen facilities.

**Kitchen facilities—** Facilities used for the preparation of meals, including refrigerators and devices used for the cooking and preparation of food.

**Limited Bed and Breakfast Restaurant—** A separate, incidental accessory use of a legally operating Bed and Breakfast that allows meals to be served to persons not staying overnight at the Bed and Breakfast provided that applicable review and performance standards contained in this Ordinance are met and maintained.

**Lodging house—** A house, building or portion thereof containing three (3) or more rooming units and providing such units, with or without meals, to individuals on a weekly or monthly basis for compensation.

**Lot—** Except when reference is made herein to a lot of record, a lot is a single tract of land located within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.

**Lot area—** The area of land enclosed within the boundary lines of a lot.

**Lot width—** The distance parallel to the front of the building measured between side lot lines through that part of the principal building where the lot is narrowest.

**Manufactured housing—** *(Amended May 5, 2001)*  A structural unit or units designed for residential occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this Ordinance, there are two (2) types of manufactured housing:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes" which the manufacturer certifies are constructed in compliance with the standards required by the United States Government Department of Housing and Urban Development, as such standards are from time to time revised or amended, meaning structures, transportable in one (1) or more sections, which in the traveling mode are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and which are built on a
permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein. This term also includes any structure which meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401 et seq.; and

(2) Those units constructed after June 15, 1976, commonly called "modular homes" which the manufacturer certifies are constructed in compliance with the Title 10, Chapter 957 of the Maine Revised Statutes Annotated, and rules adopted under that chapter, meaning structures, transportable in one (1) or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

Any unit which does not fall within the definitions of this section and which is legally sited within the town on December 18, 1989, may be relocated to any location in the town in which manufactured housing is allowed.

**Marina**- Commercial operation providing floats, slips and piers intended primarily for berthing of noncommercial vessels and the provision of related services such as supplies, fuel, equipment and repairs, which may be provided both to tenants and nontenants.

**Multiple-component manufactured housing**- Manufactured housing which is constructed and transported in two (2) or more sections of substantially similar size that must be mated to form a habitable dwelling. For purposes of multiplex development, multiple-component manufactured housing shall be considered a dwelling unit.

**Noncommercial vessel berthing**- The use of berthing space for berthing of watercraft other than commercial vessels. Berthing space used in the following manner shall not be counted in computing the number of linear feet under this use category:

(1) Space used principally for sale or repair of vessels;

(2) Commercial vessel tenant space used by a noncommercial vessel for a period not exceeding ten (10) consecutive days while the primary commercial vessel tenant is conducting its business or trade.

**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, the normal high water line is the upland edge of the wetland, and not the edge of the open water.
Normal high water mark of inland waters: That line on the shores and banks of nontidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or sloping banks), the normal high water mark shall be estimated, from places where it can be determined by the above method.

Off-street Parking- (Adopted May 10, 2008) A parking space provided no less than four (4) feet beyond a public way, street, and road.

Permanent Foundation- (Adopted May 5, 2001) Includes the following types of foundations:

1. A full, poured concrete or masonry foundation;
2. A full concrete frost wall or a mortared masonry wall, with or without concrete floor;
3. A reinforced floating concrete pad, provided an engineer licensed by the State of Maine certifies that the pad is adequate if the pad will be placed on soil with high frost susceptibility;
4. Foundations for single family dwellings that are in conformance with the requirements of the Town of Long Island Building Code as adopted under Chapter 6 "Buildings and Building Regulations" of the Town of Long Island Code of Ordinances; and Article 2 of this Chapter;
5. Foundations with essentially the same structural qualities and characteristics as those enumerated herein.

Permanent marker- A granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the code enforcement officer.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high water line or within a wetland:

1. Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

2. Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal building- The building occupied by the chief or principal use on the premises. When a garage is attached to the principal building in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal building.

Private club- Private club, or nonprofit social and recreational facility: A private club, or nonprofit
social and recreational facility, is open exclusively to members and to their bona fide guests accompanying them, in order to promote fellowship, social living, proper recreation, civic responsibility, neighborhood responsibility, community welfare or other endeavors. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facility are available and are provided within all regulations of this article and other applicable codes and ordinances.

**Processing**- Any operation changing the nature of material or materials such as chemical composition or physical qualities. Does not include operations described as fabrication.

**Recent flood plain soils**- Recent flood plain soils include the following soil series as described and identified by the National Cooperative Soil Survey:

<table>
<thead>
<tr>
<th>Soil Series</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alluvial</td>
<td>Medomak</td>
</tr>
<tr>
<td>Charles</td>
<td>Ondawa</td>
</tr>
<tr>
<td>Cornish</td>
<td>Podunk</td>
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<tr>
<td>Fryeburg</td>
<td>Rummey</td>
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<tr>
<td>Hadley</td>
<td>Saco</td>
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<tr>
<td>Limerick</td>
<td>Suncook</td>
</tr>
<tr>
<td>Lovewell</td>
<td>Winooski</td>
</tr>
</tbody>
</table>

**Recreation facilities**- Any establishment designed or equipped for the conduct of sports or indoor leisure-time recreational activities.

**Restaurant**- Any food service establishment, as defined by section 11-16 of this Code, with indoor seating capacity for ten (10) or more patrons.

**Retail**- Sale to the ultimate consumer for direct consumption and not for resale.

**Retail establishment**- Means (1) any food service establishment which is not a restaurant; or (2) any shop or store offering goods or merchandise to the general public, but does not include temporary free standing stands in either case.

**Rooming unit**- A room or suite of rooms in a house, building or portion thereof rented as living and sleeping quarters, but without full kitchens or bathrooms. In a suite of rooms, each room which provides sleeping accommodations shall be counted as one (1) rooming unit for the purpose of this article. Each rooming unit in a lodging house shall have kitchen privileges unless all meals are provided on a daily basis. There shall be no more than two (2) persons residing in each rooming unit.

**Seasonal Recreational Facility**- (Adopted May 14, 2005) A property and associated facilities that is used on a seasonal basis primarily for passive recreational purposes.

**Setback**- The required distance and the land resulting therefrom between a street line and the closest possible line of conforming structure.
Shoreland zone- The land area located within two hundred fifty (250) feet, horizontal distance, of the maximum spring tide level of any saltwater body; within two hundred fifty (250) feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high water line of a stream.

Sign- (Adopted May 5, 2001) Any device, structure, building or part thereof for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public. A roof sign is an outdoor sign which is attached flat to, painted on, or does not project more than 4 inches from the roof. Sign height will be measured from the average original grade within 30 (thirty) feet of the sign to the highest portion of the sign or supporting structure.

Sign area- (Adopted May 5, 2001) The area which encompasses the facing of a sign, including copy, insignia, background and borders. Where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured. A sign with a double sign board or display area shall be considered to be one sign for the purpose of this section and only one side shall be considered in computing sign area.

Single-component manufactured housing- Manufactured housing which is constructed and transported in one (1) section that is a habitable dwelling unit. For purposes of multiplex development, single-component manufactured housing shall not be considered a dwelling unit.

Stormwater detention area- A storage area for the temporary storage of stormwater runoff which does not contain water during nonstorm conditions.

Storm water retention area- A pond or basin used for the permanent storage of stormwater runoff.

Story- That portion of a building included between the surface of any floor and the surface of the floor, or the roof, next above. A half story is a story situated under a sloping roof, the area which at a height four (4) feet above the floor does not exceed two-thirds of the floor area of the story immediately below it and which does not contain an independent apartment or dwelling unit. A story which exceeds eighteen (18) feet in height shall be counted as two (2) stories. A basement shall be counted as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

Stream- A free-flowing body of water from the outlet of 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 16-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area, or any stream designated within a Stream Protection Zone.

Stream, tributary- A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland. This definition does not include the term "stream" as defined in this section, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving
water body or wetland.

**Street**- A public way established by or maintained under public authority, or a way dedicated to the use of the public and appearing on the official map of the town.

**Street line**- The line of demarcation between a street and the abutting land.

**Structure**- Anything constructed or erected of more than one (1) member which requires a fixed location on the ground or attached to something having a fixed location on the ground.

**Use**- The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

**Utility substation**- Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a public utility.

**Vegetation**- All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four (4) inches in diameter, measured at four and one-half (4 1/2) feet above ground level.

**Water body**- Any river, stream or tidal area.

**Watercourse**- Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, or which has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

**Water-dependent uses**- Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters.

**Wireless Communication Facility**- A Facility that transmits, receives, distributes, provides or offers wireless communications together with facility's associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals, wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features subject to standard contained in this Chapter.

**Wetlands**- Those areas which have two (2) or more of the following:

1. A water table at or near the surface during the growing season;
2. Very poorly drained soils, including Sebago mucky peat; or
(3) Obligate wetland vegetation.

For purposes of this definition, "very poorly drained soils" and "obligate wetland vegetation" shall be as defined and illustrated in the United States Department of Interior, Fish and Wildlife Service publication of Wetland Plants of the State of Maine (1986), a copy of which is on file with the code enforcement officer.

Wholesale- Sale for resale, not for direct consumption.

Yard- A space on a lot which is required by this article to be maintained open, unoccupied and unobstructed between lot lines and any structure, except as permitted in this article. In determining the front, rear or side of any accessory building, the orientation of the principal building shall be controlling.

Yard, front- A yard adjoining the front lot line, extending between side lot lines, the depth of which shall be the least distance between the front lot line and any structure.

Yard, rear- A yard adjoining the rear lot line, extending between side lot lines, the depth of which shall be the least distance between the rear lot line and any structure.

Yard, side- A yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the least distance between the side lot line and any structure.
ARTICLE 3: ZONING DISTRICT STANDARDS

3.1 ESTABLISHMENT OF ZONES. In order to carry out the provisions of this Chapter, the Town is hereby divided into the following classes of zones:

Island residential zone (IR-1)

Island residential zone (IR-2)

Recreation and open space zone (R-OS)

Island business zone (I-B)

Shoreland Overlay Zone (Article 4)

Resource protection zone (R-P)

3.2 IR-1 ISLAND RESIDENTIAL ZONE

A. Purpose. The purpose of the IR-1 island residential zone is to provide for low intensity residential, recreational, and rural uses in the less developed areas of the town in order to preserve the rustic character of the town, to protect groundwater resources and natural and scenic areas, and to permit only appropriate low intensity development in areas lacking adequate public facilities and services.

B. Permitted uses: The following uses are permitted in the IR-1 island residential zone:

(1) One single-family dwelling per lot.

(2) Agriculture.

(3) Boat houses and store houses for fishing equipment.

(4) Parking and storage of equipment related to agriculture or commercial fishing.

(5) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of Article 2 (Definitions) and Article 7 (Townwide Performance Standards) of this article, including but not limited to (a) home occupations, (b) temporary private tenting with one (1) tent accessory to a principal residential use provided that adequate water supplies and sanitation facilities are available in connection with the principal residential use, and (c) road side stands less than two hundred (200) square feet in floor area for the sale of agricultural products and the sale of fish and shellfish caught by the occupant of the dwelling or principal structure.
(6) Use of temporary occupancy structures that comply with standards herein.

(7) One detached accessory structure with a footprint less than one-hundred (100) square feet shall be permitted on each lot and shall be exempt from side and rear setbacks and shall be permitted without a building permit provided that the Town is notified by submitting a plot plan showing the location of the accessory structure on the property to be kept on file at Town Hall. *(Adopted May 4, 2002)(Amended May 12, 2007)*

C. Conditional uses:

The following uses are permitted only upon the issuance of a conditional use permit by the Appeals Board, subject to the provisions of Article 13 (Zoning Board of Appeals) of this chapter and any special provisions, standards or requirements specified below:

(1) Institutional: Any of the following uses provided that, notwithstanding Article 13 (Zoning Board of Appeals) of this chapter or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority:

a. Schools and other educational facilities including seasonal day camps other than campgrounds;
b. Churches, or other places of worship;
c. Private clubs, fraternal organizations, excluding yacht clubs and marinas;
d. Municipal uses, provided that outside storage and parking areas are suitably screened and landscaped to ensure compatibility with the surrounding neighborhood;

Such uses shall be subject to the following standards:

i. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential area;

ii. The proposed use will not cause significant displacement or conversion of residential uses existing as of July 15, 1985, or thereafter; and

iii. When more than one of the conditional uses exists, the applicable minimum lot sizes shall be cumulative.

(2) Other:

a. Utility substations including sewage and water pumping stations and standpipes, electric power substations, transformer stations, buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only), telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
b. Nursery schools, kindergarten, and day care facilities for seven (7) or more children; 
c. Cemeteries;  
d. Raising of domesticated animals, excluding swine and reptiles, with no animals kept on any lot less than three (3) acres or closer than one hundred (100) feet to any street or lot line, and provided that such use will not create any odor, noise, health or safety hazards, or other nuisance to neighboring properties;  
e. Wharves, piers, docks, or landing ramps;  
f. Bed and breakfasts  
g. Handicapped family unit, as defined in Article 2 (Definitions) for handicapped persons, plus staff.  
h. Lodging houses, with more than two (2) but not more than nine (9) lodging rooms.  
i. Wireless Communication Facilities that comply with standards herein.  
j. Limited Bed and Breakfast Restaurants that comply with standards herein.  
k. Accessory Dwelling Units. (Adopted May 12, 2007)

D. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

E. Dimensional requirements. In addition to the provisions of this chapter, lots in the IR-l zone shall meet the following minimum requirements:

(1) Minimum lot size except as provided in Article 6 (Nonconformance Structures, Uses and lots):
   a. Sixty thousand (60,000) square feet for all permitted uses except for animal raising and lodging houses.  
   b. Animal raising: Three (3) acres.  
   c. Lodging houses: Sixty thousand (60,000) square feet for up to six (6) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of six (6).  
   d. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the Maine Subsurface Wastewater Disposal Rules. The land area requirements in this section shall not apply to such a replacement system.

(2) Minimum street frontage:

One hundred (100) feet, except that a lot of record as of the date of the adoption of these ordinances and held under separate and distinct ownership from adjacent lots need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of the date of the adoption of these ordinances. Such easement or right-of-way shall have a minimum width of sixteen (16) feet and a minimum travel width of eight (8) feet except that an easement or right-of-way providing access for three (3) or more lots or providing the only means of access to a parcel or parcels of three (3) acres or more, shall be a minimum thirty-two (32) feet wide. Such easement or right-of-way shall be sufficient to permit municipal service delivery.
(3) Minimum yard dimensions: Yard dimensions shall mean setbacks of structures from property lines.
   a. Front yard: Principal or accessory structures: Thirty (30) feet.
   b. Rear yard: Principal or accessory structures: Thirty (30) feet.
   c. Side yard: Principal or accessory structures: Twenty (20) feet.
   d. Side yard on side streets: Principal or accessory structures: Twenty (20) feet.

(4) Maximum lot coverage: The combined area of all structures, including accessory structures, shall not cover more than 15% of the contiguous area of the lot which is to be built upon or otherwise improved.

(5) Minimum lot width: One hundred and fifty (150) feet.

(6) Maximum structure height:
   a. Principal or attached structure: Thirty-five (35) feet.
   b. Accessory detached structure: Eighteen (18) feet.

F. Other requirements. Other requirements include the following:

(1) Off-street parking shall be required.

(2) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the town shoreland zoning map or in a flood hazard zone shall be subject to the requirements of Article 4 (Shoreland Zoning District Standards) and Article 12 (Floodplain Standards) of this chapter.

(3) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises and not for a period exceeding thirty (30) days.

(4) Additions: Whenever a bedroom is to be added to any structure a Licensed Site Evaluator shall be retained, not at public expense, to inspect the subsurface sewage disposal system. If the system is found to be malfunctioning or not adequate to service the structure including the proposed addition while insuring the integrity of the groundwater, then a building permit will not be granted for the addition of the bedroom until the system is upgraded according to the Maine Subsurface Wastewater Disposal Rules. Such inspections shall be considered valid for three (3) years from date of issuance. For purposes of this section any room in excess of one (1) kitchen, one (1) living room, one (1) dining room, one (1) family room/office, and bathrooms shall also be considered as if it were a bedroom.
3.3 IR-2 ISLAND RESIDENTIAL ZONE

A. Purpose. The purpose of the IR-2 island residential zone is to protect the character of existing developed residential neighborhoods on the island. Expansion or extension of an existing IR-2 zone should be strictly limited, generally focused toward areas adjacent to existing village IR-2 areas, and restricted by such factors as adequacy of access, whether adequate water will be available for private use and for fire protection, and whether soils in the area are adequate for subsurface water disposal. IR-2 rezoning on substantially sized parcels should not be considered for those sites that should be more appropriately zoned IR-I.

B. Permitted use. The following uses are permitted in the IR-2 island residential zone:

1. One single-family dwelling per lot, excluding mobile home manufactured housing units.
2. Boathouses and storehouses for fishing equipment.
3. Parking and storage of equipment related to commercial fishing.
4. Accessory uses customarily incidental and subordinate to the location, function and operation of principal uses, subject to the provisions of Article 2 (Definitions) and Article 7 (Townwide Performance Standards) of this chapter including but not limited to:
   a. home occupations, (b) private temporary tenting with one (1) tent accessory to a principal residential use, provided that adequate water supplies and sanitation facilities are available in connection with the principal residential use, and (c) roadside stands less than two hundred (200) square feet in floor area for the sale of agricultural products produced on the premises, and the sale of fish and shellfish caught by the occupant of the dwelling or principal structure.
5. Agriculture
6. Use of temporary occupancy structures that comply with standards herein.
7. One detached accessory structure with a footprint less than one-hundred (100) square feet shall be permitted on each lot and shall be exempt from side and rear setbacks and shall be permitted without a building permit provided that the Town is notified by submitting a plot plan showing the location of the accessory structure on the property to be kept on file at Town Hall.

C. Conditional uses. The following uses are permitted only upon the issuance of a conditional use permit by the Appeals Board, subject to the provisions of Article 13 (Zoning Board of Appeals) of this chapter and any special provisions, standards or requirements specified below:

1. Institutional: Any of the following uses provided that, notwithstanding Article 13 (Zoning Board of Appeals) of this chapter or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority:
a. Schools and other educational facilities, including seasonal day camps other than campgrounds;
b. Churches or other places of worship;
c. Private clubs or fraternal organizations excluding yacht clubs and marinas;
d. Municipal uses, provided that outside storage and parking areas are suitably screened and landscaped to ensure compatibility with the surrounding neighborhood;

Such uses shall be subject to the following standards:
   i. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential area;
   ii. The proposed use will not cause significant displacement or conversion of residential uses existing as of July 15, 1985, or thereafter; and
   iii. When more than one of the conditional uses exist, the applicable minimum lot sizes shall be cumulative.

(2) Other:
   a. Utility substations including sewage and water pumping stations and stand-pipes, electric power substations, transformer stations, buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only), telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
   b. Nursery schools, kindergartens, and day care facilities for seven (7) or more children;
   c. Cemeteries;
   d. Raising of domesticated animals, excluding swine and reptiles, with no animals kept on any lot less than three (3) acres or closer than one hundred (100) feet to any street or lot line, and provided that such use will not create any odor, noise, health or safety hazards, or other nuisance to neighboring properties;
   e. Wharves, piers, docks, or landing ramps;
   f. Bed and breakfasts
   g. Handicapped family unit, as defined in Article 2, for handicapped persons plus staff.
   h. Lodging houses, with more than two (2) but not more than nine (9) lodging rooms.
   i. Accessory Dwelling Units. *(Adopted May 12, 2007)*

D. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

E. Dimensional requirements. In addition to the provisions of this chapter, lots in an IR-2 zone shall meet the following minimum requirements:
(1) Minimum lot size except as provided in Article 6 (Non-Conformance Structures, Uses and Lots)

a. Sixty thousand (60,000) square feet for all permitted uses except for animal raising and lodging houses.

b. Animal raising three (3) acres.

c. Lodging houses: Sixty thousand (60,000) square feet for up to six (6) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of six (6).

d. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the requirements of Maine Subsurface Wastewater Disposal Rules. The land area requirements of this section shall not apply to such a replacement system.

(2) Minimum street frontage: One hundred (100) feet, except that a lot of record as of the date of the adoption of these ordinances and held under separate and distinct ownership from adjacent lots need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of the date of the adoption of these ordinances. Such easement or right-of-way shall have a minimum width of sixteen (16) feet and a minimum travel width of eight (8) feet except that an easement or right-of-way providing access for three (3) or more lots or providing the only means of access to a parcel or parcels of three (3) acres or more, shall be a minimum thirty-two (32) feet wide. Such easement or right-of-way shall permit municipal service delivery.

(3) Minimum yard dimensions: Yard dimensions shall mean setbacks of structures from property lines.

a. Front yard: Principal or accessory structures: Thirty (30) feet.

b. Rear yard: Principal or accessory structures: Thirty (30) feet.

c. Side yard: Principal or accessory structures: Twenty (20) feet.

d. Side yard on side streets: Principal or accessory structures: Twenty (20) feet.

(4) Maximum lot coverage: The combined area of all structures, including accessory structures, shall not cover more than 15% of the area of the lot which is to be built upon or otherwise improved.

(5) Minimum lot width: One hundred and fifty (150) feet.

(6) Maximum structure height:

Principal or attached structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

F. Other requirements. Other requirements include the following:

(1) Offstreet parking: Off-street parking shall be required.
(2) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the town shoreland zoning map or in a flood hazard zone shall be subject to the requirements of Article 4 (Shoreland Zoning District Standards and Article 12 (Flood Plain Standards) of this chapter.

(3) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises and not for a period exceeding thirty (30) days.

(4) Additions: Whenever a bedroom is to be added to any structure a Licensed Site Evaluator shall be retained, not at public expense, to inspect the subsurface sewage disposal system. If the system is found to be malfunctioning or not adequate to service the structure including the proposed addition while insuring the integrity of the groundwater, then a building permit will not be granted for the addition of the bedroom until the system is upgraded according to the Maine Subsurface Wastewater Disposal Rules. Such inspections shall be considered valid for three (3) years from date of issuance. For purposes of this section any room, attached or otherwise, in excess of one (1) kitchen, one (1) living room, one (1) dining room, one (1) family room/office, and bathrooms shall also be considered as if it were a bedroom.

3.4 through 3.6- Reserved.

3.7 RECREATION AND RESORT ZONING DISTRICT (Adopted May 14, 2005)

A. Purpose. The purpose of this zoning district is:

(1) To preserve and protect limited and valuable natural and scenic resources.

(2) To permit low impact passive recreational and educational uses of island shoreland and upland areas while providing measures to protect and preserve natural and scenic characteristics and resources.

(3) To allow limited, low-impact and low-density development that supports passive recreational and educational activities.

(4) To control development and construction activities, the removal or disturbance of vegetation, earthmoving to the minimum amount necessary to allow for development that supports passive recreational and educational activities.

(5) To preserve existing scenic vistas.

B. Permitted Uses. The following uses are allowed within the Recreation and Resort Zone subject to the development standards contained herein:

(1) Public open spaces
(2) Picnic areas and groves
C. Uses requiring Site Plan Review. The following uses are allowed in the Recreation and Resort Zone provided that approval is obtained from the Planning Board in accordance with the standards established in Article 10 (Site Plan Review) as well as Section 3.7.D below in this Ordinance.

1. Municipal parks
2. Food preparation facilities
3. Campgrounds
4. Structures with a footprint larger than four hundred (400) sq. ft.
5. Wharves, piers, or landing ramps
6. Educational and recreational facilities including seasonal day camps
7. Municipal uses
8. Seasonal Recreational Facility
9. Utility substations including sewage and water pumping stations and standpipes, electric power substations, transformer stations, buried and underwater electric and telephone transmission cables entering the Town of Long Island from the ocean.

D. Standards for uses that require Site Plan Review. In addition to the criteria established in Article 10 (Site Plan Review), the Planning Board will require that the following criteria is met when reviewing proposed activities and uses in the Recreation and Resort Zone.

1. When more than one use or activity requiring Site Plan Review is proposed, the more restrictive standards shall apply.

2. In the event that a use or activity requiring Site Plan Review is proposed in a location that is difficult to access by emergency services, as determined by the Planning Board, the Planning Board may require the applicant to provide appropriate equipment, improvements and/or facilities as the Planning Board deems necessary to assist emergency personnel.

3. All authorizations obtained under site plan approval shall only apply to the applicant. Any change of use, as determined by the Code Enforcement Officer, change of ownership, or change in the party overseeing recreational or educational program operations shall require Planning Board approval.

4. The Planning Board shall ensure that the applicant is aware of the notification and/or permits required for large groups. The Planning Board shall also determine that the facilities to be used by the applicant will be adequate to serve the anticipated uses, to
protect the general safety and welfare of the participants and the public, and will adequately protect conservation and scenic values.

(5) The Planning Board shall ensure that the applicant has made adequate provisions for a potable water supply, bathroom facilities, and wastewater disposal in accordance with all applicable standards.

(6) Outside storage and parking areas must be suitably screened and landscaped to ensure compatibility with the surrounding neighborhood.

(7) Utility substations, including sewage and water pumping stations and stand-pipes, electric power substations, transformer stations, buried and underwater electric and telephone transmission cables must be suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

E. Standards for Campgrounds. (Amended May 10, 2008)

(1) Campgrounds may contain multiple campsites. Campsites may be located anywhere within a campground so long as all setback standards are complied with. The number of campsites allowed on a parcel is determined by dividing the qualifying land area of the parcel by 5,000. Areas on a parcel that are not owned in fee simple, the area under buildings or other structures, parking areas, roads, driveways and land supporting wetland vegetation and land below the maximum spring tide level is not to be included in the qualifying land area of the parcel for this density calculation.

(2) All campsites shall be set back a minimum of seventy-five (75) feet from the maximum spring tide level.

F. Standards for Individual Private Campsites. (Amended May 10, 2008)

(1) Owners of parcels in existence before the date these provisions are adopted may develop a single individual private campsite if all other applicable set back and bulk and space criteria can be met even if the lot size of their property is less than thirty thousand (30,000) square feet. Individual private campsites may otherwise be developed on each separate parcel with a density no greater than one campsite per thirty thousand (30,000) square feet of land included in the parcel.

(2) All individual private campsites shall be set back a minimum of seventy-five (75) feet from the maximum spring tide level.

G. Prohibited Uses. Uses that are not expressly enumerated herein as either permitted uses or uses requiring Site Plan Review are prohibited.

H. Access to property. In order to ensure that any new lot created after the adoption of this Recreation and Resort Zoning District shall have reasonable access the following standards shall be applicable:
(1) No new lot may be developed without deeded access to the shore.

(2) All lots that do not have direct shore frontage must have deeded rights to utilize a right-of-way or have and access easement, in a location and configuration acceptable to the Planning Board. Such rights of way or easements shall be a minimum of fifty (50) feet in width. All such rights of way or easements shall be located in a manner so as to minimize soil and wave erosion, to take advantage of appropriate slopes and topography to minimize construction costs and degradation of the site conditions, in consideration of the accessibility and utility of the easement or right of way from the shore and land areas and in consideration of the development of other existing and future lots.

I. Space and Bulk requirements. No building or structure shall be erected, altered, enlarged, rebuilt, or used unless it meets the following requirements:

(1) Minimum Lot Size: One hundred and twenty thousand (120,000) square feet.

(2) Minimum Lot Width: Two hundred (200) feet.

(3) Minimum Shore Frontage: Two hundred (200) feet (where applicable) measured in a straight line between the side lot lines.

(4) Common Shore Frontage: Shorefront area(s), including beaches, owned, the subject of easements or rights of way or used by multiple property owners must include two hundred (200) feet of shore frontage for the first owner and an additional 25 feet of shore frontage, measured in a straight line between the side lot lines, for each additional property owner using the common shore frontage. In no event shall such common use exceed other applicable density requirements including those established by the Maine Department of Environmental Protection.

(5) Minimum yard dimensions: Yard dimensions shall mean setbacks of structures from property lines.
   a. Front yard: Principal or accessory structures: Thirty (30) feet.
   b. Rear yard: Principal or accessory structures: Thirty (30) feet.
   c. Side yard: Principal or accessory structures: Twenty (20) feet.
   d. Side yard on side streets: Principal or accessory structures: Twenty (20) feet.

(6) Maximum Lot Coverage: The combined area of all structures, including accessory structures, campsites, shall not cover more than 15% of the contiguous area of the lot.

(7) Maximum Structure Height: Thirty-five (35) feet.
J. Other requirements. Other requirements include the following:

(1) No roads shall be constructed.

(2) Shoreland and floodplain management regulations: Any lot or portion of a lot located in a Shoreland zone as identified on the Town Shoreland Zoning Map or in a flood hazard zone shall be subject to the requirements of Article 4 (Shoreland Zoning District Standards) and Article 12 (Floodplain Standards) of this Ordinance.

3.8 R-OS RECREATION AND OPEN SPACE ZONE

A. Purpose. The purpose of this division is:

(1) To preserve and protect open space as a limited and valuable resource;

(2) To permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as scenic, recreation, and conservation or natural resource area, and for the containment and structuring of development; and

(3) To coordinate with and carry out federal, state, regional, and town recreation and open space plans.

The recreation open space zone may include major parcels (over two (2) acres) of public property, and private property legally restricted from intensive use or development through deed, covenant, or otherwise.

B. Permitted uses. The following uses are permitted uses within the recreation and open space zone, subject to the development standards contained herein:

(1) Municipal parks, public open spaces, picnic areas, playgrounds;
(2) Cemeteries;
(3) Arboretums;
(4) Golf courses, excluding miniature golf;
(5) Boat landings, beaches, and marinas for public uses;
(6) Outdoor ballfields and public athletic fields;
(7) Swimming pools and tennis courts;
(8) Picnic groves and areas;
(9) Natural parks and scenic overlooks;
(10) Hiking, walking, bicycling or cross-country ski trails;
(11) Community gardens for cultivation by and for town residents;
(12) Accessory uses, including structures or buildings of less than two thousand five hundred (2,500) square feet of floor area.
C. Conditional uses. The following uses are conditional uses in the recreation and open space zone, subject to approval by the board of appeals.

1. Accessory uses with structures or buildings of two thousand five hundred (2,500) square feet or more of floor area;
2. Other recreational facilities and uses that are open to the public;
3. Buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only).

D. Standards for conditional uses. In addition to the criteria listed in Article 13 (Zoning Board of Appeals), the board of appeals shall consider the following criteria when reviewing conditional uses in the recreation and open space zone:

1. The use shall be in conformity with or satisfy a deficiency identified in a federal, state, regional, or town recreation and open space plan, including but not limited to the state comprehensive outdoor recreation plan, as such plans may from time to time be created or revised.
2. Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site.

E. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

F. Space and bulk requirements. No building or structure of a permanent nature shall be erected, altered, enlarged, rebuilt, or used unless it meets the following requirements:

1. Minimum front yard:
   a. Principal buildings or structures: Twenty-five (25) feet.
   b. Accessory buildings or structures: Twenty-five (25) feet.
2. Minimum rear yard:
   a. Principal buildings or structures: Twenty-five (25) feet.
   b. Accessory buildings or structures: Twenty-five (25) feet.
3. Minimum side yard:
   a. Principal buildings or structures: Twelve (12) feet.
   b. Accessory buildings or structures: Twelve (12) feet.
4. Minimum lot size: Two (2) acres
5. Maximum building height: Thirty-five (35) feet.
6. Maximum coverage of lot by buildings, structures and other impervious site improvements such as paved sidewalks, drives and parking lots: Twenty-five (25) percent of lot area.
7. Maximum floor area ratio: Two-tenths (0.2).

G. Development standards for recreation and open space zone. All development in the recreation and open space zone shall comply with the following development standards, which shall be reviewed by the planning board in conjunction with the site plan review:
(1) All ground areas not used for parking, loading, vehicular or pedestrian areas and not left in their natural state shall be suitably landscaped.

(2) Natural features, such as mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

(3) Loading areas shall be screened and parking areas shall be screened and landscaped so as to avoid a large continuous expanse of paved area.

(4) Buildings and structures shall be sited to avoid obstructing significant scenic views presently enjoyed by nearby residents, passersby, and users of the site.

(5) Storage of commodities and equipment shall be completely enclosed within buildings or provided with screening by a fence, wall, or landscaping.

(6) The outer perimeter of playfields, and other active recreational areas shall be screened, or shall be located a reasonable distance from any residential use.

(7) Off-street parking shall be required.

H. Shoreland and flood plain management regulations. Any lot or portion of a lot located in a shoreland zone as identified on the town shoreland zoning map or in a flood hazard zone shall be subject to the requirements of Article 4 (Shoreland Zoning District Standards) and Article 12 (Floodplain Standards).

3.9 I-B ISLAND BUSINESS ZONE

A. Purpose. The purpose of the I-B island business zone is to provide limited areas on the island for retail and service establishments that serve primarily the needs of the local island market area.

B. Permitted uses. The following uses are permitted in the I-B island business zone: (Amended May 5, 2001)

   (1) One Single-family dwelling per lot, excluding mobile home manufactured housing units.

   (2) Retail or service establishments, excluding those listed below:

       a. Automobile service stations;

       b. Inns;

   (3) Marinas and yacht clubs;

   (4) Lodging houses, with more than two (2) but not more than nine (9) lodging rooms;

   (5) Wharves, piers, docks, or landing ramps;

   (6) Off-street parking;

   (7) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of Article 2 (Definitions) and Article 7 (Townwide Performance Standards) of this chapter including but not limited to home occupations;

   (8) Restaurants

   (9) Use of temporary occupancy structures that comply with standards herein.

C. Conditional uses. The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of Article 13 (Zoning Board of Appeals) of this Chapter and any special provisions, standards or requirements specified below:

   (1) Automobile service stations;
(2) Inns;
(3) Schools;
(4) Nursery schools, kindergartens and day care centers for seven (7) or more children;
(5) Municipal uses, provided outside storage and parking area uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
(6) Churches or other places of worship;
(7) Private clubs, fraternal organizations;
(8) Bed and Breakfasts;
(9) Handicapped family unit, as defined in Article 2 (Definitions), for handicapped persons plus staff;
(10) Buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only);
(11) Accessory Dwelling Units; (Adopted May 12, 2007)
(12) Multi-Family Dwellings. (Adopted May 12, 2007)

D. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

E: Dimensional Requirements. (Amended May 9, 2009) In addition to the provisions of this Chapter, lots in the IB, Business District Zone, shall meet the following minimum requirements:

(1) Minimum lot size except as provided in Article 6 (Non-conforming Structures, Uses and Lots):

   a. Thirty thousand (30,000) square feet for all permitted uses except for the following:

      (i). Lodging Houses: Thirty thousand (30,000) square feet for up to three (3) lodging rooms, plus an additional ten thousand (10,000) square feet for each additional lodging room in excess of (3) rooms.

      (ii). Inns: Ten thousand (10,000) square feet for each guest room, Thirty Thousand (30,000) square feet minimum.

      (iii) Multi-Family Dwelling: Thirty thousand (30,000) square feet per dwelling unit.

   b. Where an existing subsurface disposal system serving an existing structure requires replacement or enlargement, the replacement system shall meet the requirements of the latest Maine Subsurface Wastewater Disposal Rules. The land area requirements of this section shall not apply to such a replacement system.

(2) Minimum street frontage: Forty (40) feet.
(3) Minimum yard dimensions: Yard dimensions mean setbacks of structures from property lines.

   a. Front yard: Principal or accessory structures: Twenty (20) feet.
   b. Rear yard: Principal or accessory structures: Ten (10) feet.
c. Side yard: Principal or accessory structures: Ten (10) feet.

(4) Maximum lot coverage: twenty (20) percent of lot area except for lots of record containing less than 20,000 sq. ft which can have maximum lot coverage of up to 50% but only with planning board approval.

(5) Minimum lot width: Forty (40) feet.

(6) Maximum structure height:
   Principal or attached structure: Thirty-five (35) feet.
   Accessory detached structure: Eighteen (18) feet.

F. Other requirements. Other requirements include the following:

(1) Off-street parking: Off-street parking shall be required.

(2) Additions: Whenever a bedroom is to be added to any structure a Licensed Site Evaluator shall be retained, not at public expense, to inspect the subsurface sewage disposal system. If the system is found to be malfunctioning or not adequate to service the structure including the proposed addition while insuring the integrity of the groundwater, then a building permit will not be granted for the addition of the bedroom until the system is upgraded according to the Maine Subsurface Wastewater Disposal Rules. Such inspections shall be considered valid for three (3) years from date of issuance. For purposes of this section any room, attached or otherwise, in excess of one (1) kitchen, one (1) living room, one (1) dining room, one (1) family room/office, and bathrooms shall also be considered as if it were a bedroom.

3.10 RESOURCE PROTECTION ZONE

A. Purpose. The purpose of the Resource Protection Zone is to restrict development in those areas of the Shoreland Zone (see Article 4) in which it would adversely affect water quality, productive habitat, biological ecosystems or scenic and natural values.

B. Uses. No building shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used, in a R-P resource protection zone except for the following uses:

(1) Nonintensive recreational uses not requiring structures, such as fishing and hiking;
(2) Bikeways, pedestrian trails and walkways;
(3) Fire prevention activities;
(4) Wildlife management activities;
(5) Soil and water conservation activities;
(6) Surveying and natural resource analysis;
(7) Emergency operations as defined in Article 2 (Definitions);
(8) Harvesting of wild crops;
(9) Nonresidential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than two hundred (200) square feet;
(10) Public and private parks and recreational areas, including one (1) or more structures containing a total maximum floor area of not more than two hundred (200) square feet;
(11) Permanent and temporary piers, docks, wharves, bridges and uses projecting into water bodies, as allowed in this article 4 (Shoreland Zoning District Standards);
(12) Storehouses for fishermen's gear;
(13) Essential aids to navigation;

C. **Conditional uses.** The following uses are permitted only upon the issuance of a conditional use permit by the appeals board, subject to the provisions of Article 13 (Zoning Board of Appeals) of this article and any special provisions, standards or requirements specified below:

(1) Buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only).

D. **Space and bulk.** No building or structure shall be erected, altered, enlarged, rebuilt, or used in a R-P resource protection zone which does not comply with the following requirement:

(1) Maximum height:
   a. Building or structure: 15 feet.

*(Adopted/Amended May 8, 2010)*
ARTICLE 4: SHORELAND ZONING DISTRICT STANDARDS
(Amended May 8, 2010)

4.1 Purposes.

The purposes of this article are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space, as appropriate in an island environment; and to anticipate and respond to the impacts of development in shoreland areas.

4.2 Authority.

This Article has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

4.3 Applicability.

This article applies to all land areas within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action. This Article also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

4.4 Effective Date.

A. Effective Date of Article and Article Amendments.

This Article, which was adopted by the municipal legislative body on May 8, 2010, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. In the case of Amendments to this Article, the adoption date of the Amendment is specified with the amended language. This Article and any Amendments thereto must either be approved or disapproved by the Commissioner within forty-five (45) days of his/her receipt of the Article or Amendments. If the Commissioner does not act within this time limit, the Article or Amendment shall be automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Article or Article Amendment if the Article or Article Amendment is approved by the Commissioner.

B. Section 4.15(O-1)(3)(c).

Section 4.15(O-1)(3)(c) becomes effective on the date specified by 38 M.R.S.A. section 438-B(5).

4.5 Reserved.

4.6 Severability.

Should any section or provision of this article be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the article.
4.7 Conflicts with Other Ordinances.

Whenever a provision of this article conflicts with or is inconsistent with another provision of the Town of Long Island Land Use Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

4.8 Reserved.

4.9 Shoreland Zone Map.

A. Official Shoreland Zoning Map. The State mandated Shoreland Zone is an overlay zone imposed on existing zones as defined in Article 3 of this ordinance and shown on the Town of Long Island Official Zoning Map(s) which is (are) made a part of this ordinance.

B. Reserved.

C. Certification of Official Shoreland Zoning Map. The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

D. Changes to the Official Shoreland Zoning Map. If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

4.10 Interpretation of Shoreland Zone Boundary.
The location of the shoreland zone boundary is given on the Town of Long Island Official Zoning Map. Where uncertainty exists as to the exact location of any part of this boundary, the Board of Appeals shall be the final authority as to location.

4.11 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 in the shoreland zone except in conformity with all of the regulations herein specified, unless a variance is granted.

4.12 Non-conformance.

A. Purpose.

It is the intent of this Article to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Article or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 4.12. Except as otherwise provided in this Article, a non-conforming condition shall not be permitted to become more non-conforming. See section 4.17 of this Article for the definitions of non-conforming structures, lots and uses.

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 Article.

(2) Repair and Maintenance. This Article allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

(1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with sub-paragraphs (a) and (b) below.

(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 tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 4.12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing its decision on the criteria specified in Section 4.12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 4.12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

(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 Code Enforcement Officer, 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 Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no
further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

(3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Code Enforcement Officer in accordance with the purposes of this Article. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 4.12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 4.12(C)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Code Enforcement Officer shall consider, in addition to the criteria in Section 4.12(C)(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 tributary stream or coastal wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.
D. Non-conforming Uses

(1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 14.2(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, including water dependent uses in the IB Zone, 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 4.12(C)(4) above.

E. Non-conforming Lots

(1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Article 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 Article except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

(2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Article, if all or part of the lots do not meet the dimensional requirements of this Article, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Article, 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 Article.

(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 Article, if any of these lots do not individually meet the dimensional requirements of this Article or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on *July 1, 1993*, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and
(a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
(b) Any lots that do not meet the frontage and lot size requirements of Section 4.12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

*Per MDEP Order #12-10 (Voters will vote on this change at the 2011 Annual Town Meeting)*

4.13 Establishment of Districts.

See Article 3 of the Land Use Ordinance

4.14 Table of Land Uses.

See Article 3 of Land Use Ordinance.

4.15 Land Use Standards.

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

(1) Lot Size and Shore Frontage

(a) Minimum Lot Size:

(i) Residential Development adjacent to tidal areas:

The more stringent of the lot size specified in Article 3 for the underlying zone or thirty thousand (30,000) square feet per single family dwelling or dwelling unit.

(ii) Governmental, Institutional or Commercial Development adjacent to tidal areas:

The more stringent of the lot size specified in Article 3 for the underlying zone or forty thousand (40,000) square feet per principal structure.

(b) Minimum Shore Frontage:

(i) Residential Development adjacent to tidal areas:

One-hundred and fifty (150) feet per single family dwelling or dwelling unit.

(ii) Governmental, Institutional or Commercial Development adjacent to tidal areas:

Two-hundred (200) feet per principal structure.

(2) Land below the 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 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 single family dwelling or dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures

(1) All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from tributary streams or the upland edge of a coastal wetland, except that in the IB Zone the setback shall be at least twenty five (25) feet, horizontal distance. In a Resource Protection Zone the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. In addition:

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) Reserved.

(c) For principal structures, wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

(d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

(2) Reserved.

(3) Reserved.

(4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the IB zone adjacent to tidal waters
where lot coverage shall not exceed seventy (70) percent.

(5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is (are) at least 25 feet, horizontal distance, from a tributary stream or upland edge of a coastal wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, is no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on coastal wetlands and tributary streams, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 4.15(P)(2)(a), may traverse the buffer;

(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 over the upland edge of a coastal wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

(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 the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

(5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending within a coastal wetland unless the structure requires direct access to the coastal wetland as an operational necessity.

(6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the upland edge of a coastal wetland shall be converted to residential dwelling units in any district.

(8) Except in the IB Zone structures built on, over or abutting a pier, wharf, dock or other structure extending within a coastal wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

D. Campgrounds.

See Article 3(7)(E).

E. Individual Private Campsites.

See Article 3(7)(F).

F. Reserved.

G. Parking Areas

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

(2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a tributary stream or coastal wetland and where feasible, to retain all runoff on-site.

(3) In determining the appropriate size of proposed parking facilities, the following shall apply:

   (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that
parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

(b) Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways.

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

(1) Roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance from the normal high-water line of tributary streams or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 4.15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 4.15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

(2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

(3) Reserved.

(5) New roads and driveways are prohibited in a Resource Protection Zone except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection Zone the road and/or driveway shall be set back as far as practicable from the normal high-water line of a tributary stream or upland edge of a wetland.

(6) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 4.15(Q).

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

(8) In order to prevent road and driveway surface drainage from directly entering tributary streams or coastal wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a tributary stream or upland edge of a coastal wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
(8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>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 grade is ten (10) percent or less.

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

(9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs.

The following provisions shall govern the use of signs in the Resource Protection zone and the shoreland zone sections of the IR1, IR2 and IB Zones:

(1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

(2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

(3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

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

(5) Signs relating to public safety shall be allowed without restriction.

(6) No sign shall extend higher than twenty (20) feet above the ground.

(7) Signs may be illuminated only by shielded, non-flashing lights.
J. Storm Water Runoff

(1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters.

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal

(1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

   a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the upland edge of a coastal wetland and

   b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection Zone, except to provide services to a permitted use within said zone, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction.

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

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 4.15 (M)(4) below.

(2) No part of any extraction operation, including drainage and runoff control features, shall be permitted
within seventy-five (75) feet, horizontal distance, of a tributary stream, or the upland edge of a coastal wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

(3) Reserved.

(4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

(b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

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

N. Agriculture

(1) All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

(2) Manure shall not be stored or stockpiled within tributary streams or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Article.

(4) There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams. Operations in existence on the effective date of this Article and not in conformance with this provision may be maintained.

(5) Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O-1. Timber Harvesting

Statewide Standards
(1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of tributary stream banks, tributary stream channels, shorelines, and soil lying within tributary streams and coastal wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of tributary stream banks tributary stream channels, shorelines, and soil lying within tributary streams and coastal wetlands occurs, such conditions must be corrected.

(2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any tributary stream, or the upland edge of a coastal wetland. Section 4.15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(b) Adjacent coastal wetlands:

(i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the upland edge of a coastal wetland; and

(ii) Between 50 feet and 250 feet, horizontal distance, of the upland edge of a coastal wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

(3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

(a) Option 1 (40% volume removal), as follows:

(i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the upland edge of coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the upland edge of a coastal wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option 2 (60 square foot basal area retention), as follows:

(i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the upland edge of coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the upland edge of a coastal wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) Option 3 (Outcome based) [Becomes effective on effective date established in Section 4.4(B)], which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation’s Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(a) Equipment used in timber harvesting and related activities shall not use tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a tributary stream, or coastal wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks:

   (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any tributary stream or coastal wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

   (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the tributary stream or coastal wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief.
culverts and ditch water turnouts placed to avoid sedimentation of the tributary stream or coastal wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) Land Management Roads. Land management roads, including approaches to crossings of tributary stream channels, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the tributary stream or coastal wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or coastal wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 4.15(O-1)(7) of this rule.

(a) Land management roads and associated ditches, excavation, and fill must be set back at least:

(i) 100 feet, horizontal distance, from a coastal wetland; and

(ii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

(b) The minimum 100 foot setback specified in Section 4.15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, if, prior to construction, the landowner or the landowner’s designated agent demonstrates to the Planning Board’s satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the coastal wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the coastal wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

(d) New land management roads are not allowed within a Resource Protection District, unless, prior to construction, the landowner or the landowner’s designated agent makes a clear demonstration to the Planning Board’s satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from any tributary stream or coastal wetland.

(e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 4.15(O-1)(7).Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the tributary stream or coastal wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the tributary stream or coastal wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 4.15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a
sufficient distance beyond the traveled way so that water does not reenter the road surface.

(g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 4.15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

(h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 4.15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner’s designated agent demonstrates to the Planning Board’s satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the tributary stream or coastal wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the tributary stream, or coastal wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

(6) Crossings of water bodies. Crossings of tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.


(b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 4.15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 4.15(O-1).

(c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

(d) Reserved.

(e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

(i) a map showing the location of all proposed permanent crossings;
(ii) the GPS location of all proposed permanent crossings;
(iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
(iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

(f) Water crossing standards. Tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

(i) concentrated water runoff does not enter the stream or tributary stream;
(ii) sedimentation of surface waters is reasonably avoided;
(iii) there is no substantial disturbance of the bank or tributary stream channel;
(iv) fish passage is not impeded; and,
(v) water flow is not unreasonably impeded.

Subject to Section 4.15(O-1)(6)(f)(i-v) above, skid trail crossings of tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) Bridge and Culvert Sizing. For crossings tributary stream channels with a bridge or culvert, the following requirements apply:

(i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the tributary stream channel.

(ii) Temporary bridge and culvert sizes may be smaller than provided in Section 4.15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) Tributary stream crossings allowed under Section 4.15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or
Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(v) Exception. Skid trail crossings of tributary streams within shoreland areas and coastal wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of tributary stream banks and channels, shorelines, and soil lying within coastal wetlands occurs, such conditions must be corrected.

(h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(i) Bridges and culverts installed for tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 4.15(O-1)(6)(i) below.

(ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the tributary stream bed or bank, as soon as practical after snowmelt.

(iii) Tributary stream channels, banks and approaches to crossings of tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

(i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

(ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

(iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid
sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7)Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 4.15(O-1), but in no case shall be less than shown in the following table.

<table>
<thead>
<tr>
<th>Average slope of land between exposed mineral soil and the shoreline (percent)</th>
<th>Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>10</td>
<td>45</td>
</tr>
<tr>
<td>20</td>
<td>65</td>
</tr>
<tr>
<td>30</td>
<td>85</td>
</tr>
<tr>
<td>40</td>
<td>105</td>
</tr>
<tr>
<td>50</td>
<td>125</td>
</tr>
<tr>
<td>60</td>
<td>145</td>
</tr>
<tr>
<td>70</td>
<td>165</td>
</tr>
</tbody>
</table>

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

(1) In any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

(2) Except in areas as described in Section 4.25(P)(1), above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any tributary stream or the upland edge of a coastal wetland, a buffer strip of vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 4.15(P)(2)(b) a "well-distributed stand of trees" adjacent to tributary streams or coastal wetlands shall be defined as maintaining a rating score of 16 or more in each 25 foot by 50 foot rectangular (1250 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 - &lt; 4 in.</td>
<td>1</td>
</tr>
<tr>
<td>4 – &lt;8 in.</td>
<td>2</td>
</tr>
<tr>
<td>8-&lt; 12 in.</td>
<td>4</td>
</tr>
<tr>
<td>12 in. or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

The following shall govern in applying this point system:
(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
(ii) Each successive plot must be adjacent to, but not overlap a previous plot;
(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Article;
(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Article;
(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 4.15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 4.15(P) paragraphs (2) and (2)(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 4.15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

(3) At distances greater than seventy-five (75) feet, horizontal distance, from a tributary stream or the upland edge of a coastal wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Island Business Zone.

(4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Article.
(5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 4.15(P).

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 also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

(a) Mulching and re-vegetation of disturbed soil.

(b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

(c) Permanent stabilization structures such as retaining walls or rip-rap.

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

(a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

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, tributary stream or wetland.

T. Archaeological Site.

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

4.16 Administration

A. General site plan features. The Planning Board or Code Enforcement Officer shall approve a site plan located within a shoreland zone if it finds that the following standards, in addition to the standards set forth in Article 10 (Site Plan Review) are met:

(1) The proposal will maintain safe and healthful conditions;
(2) The proposal will not result in water pollution, erosion, or sedimentation to surface waters;
(3) The proposal will adequately provide for the disposal of all wastewater;
(4) The proposal will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
(5) The proposal will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
(6) The proposal will protect archaeological and historic resources;
(7) The proposal will not adversely affect existing commercial fishing or maritime activities;
(8) The proposal will avoid problems associated with flood plain development and use; and
(9) The proposal is in conformance with the standards set forth in this section.

B. Permit expiration. In the shoreland zone if a permitted project is not substantially started (30% of project completed) within one year the permit becomes void.

C. Shoreline Lot Line. For purposes of these land use ordinances the maximum spring tide level shall be considered to be the shoreline lot line.

4.17 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 subdivide the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.
**Aggrieved party** - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Agriculture** - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

**Aquaculture** - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Basal Area** - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

**Basement** - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Boat Launching Facility** - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Bureau** – State of Maine Department of Conservation’s Bureau of Forestry

**Campground** - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy** – the more or less continuous cover formed by tree crowns in a wooded area.

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

**Commercial use** - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

**Cross-sectional area** – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**DBH** – the diameter of a standing tree measured 4.5 feet from ground level.

**Dimensional requirements** - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability** - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition
caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**Disruption of shoreline integrity** - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

**Driveway** - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

**Emergency operations** - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**Essential services** - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a structure** - an increase in the 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 one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

**Family** - one or more persons occupying a premise and living as a single housekeeping unit.

**Floodway** - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, 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.

**Forested wetland** - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**Forest Stand** - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

**Foundation** - the supporting substructure of a building or other structure, excluding wooden sills and post
supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

**Freshwater wetland** - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration length of time sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

**Ground cover** – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Harvest Area** - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

**Height of a structure** - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

**Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland.
Included in this allowance are expansions which in-fill irregularly shaped structures.

**Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**Institutional** – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Land Management Road** - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

**Licensed Forester** - a forester licensed under 32 M.R.S.A. Chapter 76.

**Lot area** - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Marina** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**Market value** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**Mineral exploration** - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral extraction** - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Minimum lot width** - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Multi-unit residential** - a residential structure containing three (3) or more residential dwelling units.

**Native** – indigenous to the local forests.

**Non-conforming condition** – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Non-conforming lot** - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

**Non-conforming structure** - a structure which does not meet any one or more of the following dimensional requirements; setback, height, 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 allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a 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.

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.) an existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - the average 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.

**Residual Stand** - a stand of trees remaining in the forest following timber harvesting and related activities

**Road** - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

**Service drop** - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
   a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
   b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service
   a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
   b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback** - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore frontage** - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance of the upland edge of a coastal wetland, including all areas affected by tidal action.

**Shoreline** – the upland edge of a coastal wetland.

**Skid Road or Skid Trail** - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

**Slash** - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

**Structure** - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, 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** – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface
waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal waters** – all waters affected by tidal action during the maximum spring tide.

**Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 4.15 (P), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

**Timber harvesting and related activities** - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Tributary stream** – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action.

**Vegetation** - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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

**Volume of a structure** - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water crossing** - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Wetland** - a coastal wetland.

**Windfirm** - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

**Woody Vegetation** - live trees or woody, non-herbaceous shrubs.
ARTICLE 5: GENERAL PROVISIONS

5.1 Conformity Required.

A. Conformity required. No building or structure shall be erected, altered, enlarged, rebuilt, moved or used, and no premises shall be used unless in conformity with the provisions of this article.

B. Minimum requirements established. In interpreting and applying the provisions of this article, they shall be held to be minimum requirements for the promotion of health, safety, convenience and welfare of the citizens of the town; for reducing the danger from fires; and for improving the town.

C. Generally. The requirements of this article shall be subject to the use regulations and exceptions of this division.

D. Conflicts Provision: Under all circumstances, the most restrictive Ordinance standard shall apply.

5.2 Relationship of Buildings to Lots.

A. Relationship of buildings to lots. Every building hereafter erected shall be located on a lot as defined in Article 2 (Definitions).

B. Reduction of lot area prohibited. No lot shall be so reduced that yards, lot width, lot frontage, lot area, area per dwelling unit, and space for off-street parking shall be less than the minimum required under this article.

C. Required open space. No part of a yard or other open space required about any building under this article shall be included as a part of a yard or other open space required for another building.

D. Projections in required yard areas. A front yard may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed fifty (50) square feet nor the projection from the building exceed five (5) feet. A cornice eave, sill, canopy, chimney, or other similar architectural feature, but not including a bay window, may project into any required yard a distance of not more than two (2) feet.

5.3 Corner Lots.

A. Corner lots. In case a dwelling house has its front yard upon the long side of a corner lot, the rear yard may be reduced to a depth not less than the width required for a side yard on the lot, provided the aggregate of the widths of both sides and depths of front and rear yards is not less than the similar aggregate of required dimensions of all yards required if the front yard were faced on the short side of the lot.
B. Corner clearance. No obstruction higher than three and one-half (3 1/2) feet above the lowest elevation at the curb line shall be permitted on a corner lot within the area of a triangle formed by a line intersecting the street lines of the intersecting streets at points twenty-five (25) feet from the corner. For the purpose of this section, the word "obstruction" shall mean any shrub, wall, fence, temporary building, sign, a pile of material, but shall not include permanent buildings or structures where permitted elsewhere in this article.

5.4 Zone boundaries when uncertain. Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning maps, the following rules shall apply:

A. Unless otherwise indicated, zone boundary lines are the center lines of streets, or waterways or such lines extended.

B. The depictions of the shoreland zoning districts on the Shoreland Zoning Maps are illustrative of the general location of such zones. The actual boundaries of these zones shall be determined by measurement of the distance indicated on the maps from the maximum spring tide level of the water body or the upland edge of wetland vegetation. Where such measurement is not the same as the location of the boundary on the Shoreland Zoning Maps, the measurement shall control, unless the Shoreland Zoning Map indicates that the zone boundary shall follow an existing property line.

5.5 Joint occupancy. When two (2) or more uses occupy the same building or premises, the off-street parking requirements and the dimensional requirements per dwelling unit of both uses shall be met in full.

5.6 High Tide Mark. For purposes of these land use ordinances the maximum spring tide level shall be considered to be the shoreline lot line. (Amended May 10, 2008)
ARTICLE 6: NON-CONFORMING STRUCTURES, USES AND LOTS

6.1 Generally. (Amended May 10, 2008)

A. Any lawful use of buildings, structures, premises or parts thereof that existed prior to the date of the adoption of this chapter and amendments, and made nonconforming by the provisions of this article or any amendment thereto, may be continued. The property nonconforming as to use may also be sold or transferred and the new owner can continue the nonconforming use. This ordinance allows the normal upkeep and maintenance of nonconforming uses and structures.

B. Nonconformity as to off street parking. A building or structure which is nonconforming as to the requirements for off-street parking shall not be enlarged or altered unless required off-street parking is provided for such addition or enlargement.

6.2 Nonconforming Structures. Buildings lawfully nonconforming as to lot size and minimum yard dimensions (beyond the exterior walls of the existing building as specified in 6.2.C. below).

A. A building lawfully nonconforming as to lot size and minimum yard dimensions may be maintained or repaired, but no alterations, modifications or additions shall be made to it, except as provided in this section. Such nonconforming structures and their lots may be transferred or sold and the new owner may continue to use the structure and lot subject to the following provisions:

B. Alterations to nonconforming buildings limited. Buildings which are lawfully nonconforming as to lot size and minimum yard dimensions may be altered, modified, or added to, providing the proposed changes in existing exterior walls and/or roofs shall not create any new nonconformity, exceed the maximum lot coverage permitted in the zone in which the building is located, or increase any existing nonconformity. For purposes of this ordinance, an increase to the nonconformity of the structure shall mean any expansion towards a water body or property line that decreases any setback distance from the shore or property line that is already less than current setback requirements.

Setback examples. If the current setback requirement from a particular property line is 20 feet and the building is currently 5 feet (shortest distance perpendicularly) from that line, any addition cannot be closer than 5 feet from that line. If a roof line of a legally nonconforming building is 36 feet and the current regulations limit building height to 35 feet, an addition could be 36 feet in height. These changes would not increase the nonconformity or create any new nonconformity of the building.

C. Building extensions.

(1) A building existing on June 5, 1957, the height, yards and other open spaces of which conformed with the provisions of the zoning ordinance then in effect for new buildings,
may be extended upward throughout its area to the full height permitted herein for new buildings and may be extended horizontally, provided the width and the depth of no yard or other open space which is less than that permitted herein is thereby reduced to less than the minimum width or depth of such yard or open space as existing on June 5, 1957.

(2) Existing buildings which are conforming as to land area per dwelling unit on July 19, 1988, whether conforming or nonconforming as to any yard requirements, may be enlarged or extended within the existing footprint, provided that the expansion of portions of buildings adjacent to any nonconforming setback does not extend horizontally beyond the exterior walls of the existing building.

D. Enclosure of porches. Any open porch existing with a roof over the same on June 5, 1957, and encroaching upon any yard required by this article may be enclosed if the major portion of the enclosure is of glass.

6.3 Expansion in Shoreland Zone (Repealed May 8, 2010 see Article 4 Section 12.C)
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6.4 Nonconforming Uses.

A. Premises expansion prohibited. A lawful nonconforming use existing on premises outside of a building shall not be extended to or allowed to occupy any additional part of the premises.

B. Changing to a permitted use. A lawful nonconforming use cannot be changed to any use other than a permitted use or a conditional use (with the required approval) in the zone in which the building or land is located.

C. A building whose use is wholly nonconforming shall not be altered so as to increase the cubical content or the degree of nonconforming use. In addition, a nonconforming use conducted in any part of a building cannot be extended to any other part of such building, except if it is required for bringing the use into compliance with health or safety codes or to correct a condition that is determined by the board of appeals to constitute a health or safety problem. In either case, expansion shall be limited to the minimum necessary to accomplish that purpose.

D. Discontinuance in use. If a nonconforming use of land and or building(s) is discontinued for a period of twelve (12) months, such discontinuance shall constitute an abandonment of the use and the building or premises shall not thereafter be occupied or used except in conformity with the provisions of this article.

E. Change to nonconforming use.

The use of any part of any building or structure for a one-family dwelling house, lodging house, educational use, club, church, farm use, institution, office or bank, place of amusement or assembly, retail business or service other than a filling station or garage, wholesale business, minor garage for not more than one (1) commercial motor vehicle, minor garage for more than one (1) commercial motor vehicle, or for any other distinctive use shall not be changed to any other use in this list of uses or to any other distinctive use, whether alterations in the building or structure are involved or not, until a permit and certificate authorizing such change of use has first been secured from the code enforcement officer, unless the proposed use conforms with the requirements of this article for the zone in which the building or structure or part thereof is located. Failure to secure such a permit before such a change is made shall be a violation of this article.

6.5 Nonconforming lots of record.

A. Merger Requirements for 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, and if any of these lots do not individually meet the dimensional requirements of the Town of Long Island Ordinances (60,000 sq. ft.) or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined. Subsequently created lots must be at least 60,000 sq. ft. (Contiguous lots in the same ownership on or after October 3, 1973 shall be
considered as one lot to comply with the 20,000 sq. ft. requirement for a single family residential unit as required by the State Minimum Lot Size Law.

B. Conveyance of contiguous lots each containing a principal use or structure: If two or more contiguous lots or parcels are in a single or joint ownership of record as of January 1, 1997, and if all or part of the lots do not meet the dimensional requirements of the Town of Long Island ordinances (60,000 sq. ft.), 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 as 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 and such division is subject to approval by the Planning Board.

C. Nonconforming solitary lots of record 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 all of the following requirements are met:

(1) such lot is in separate ownership and not contiguous with any other lot in the same ownership, and
(2) the minimum buildable lot of record is 20,000 sq. ft. except as allowed by the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules, and
(3) that the structure meets all the required yard dimensions (i.e. setbacks) of this Ordinance except those relating to lot size and frontage, and
(4) no lot less than 10,000 sq. ft. shall be built upon with any structure which requires a waste water disposal system.

Variances relating to setback or other requirements not involving lot size or frontage shall require action of the Board of Appeals.
ARTICLE 7: TOWNWIDE PERFORMANCE STANDARDS

7.1 Generally.

7.2 Abutter Notification Requirements for SSWD Permit

A. No permit shall be issued for any subsurface wastewater disposal (SSWD) system, or component thereof, until the applicant has submitted the following information to the Long Island Local Plumbing Inspector (LPI):

(1) A signed statement from the present property owner(s) that abutting property owners have been notified as specified in this section that a subsurface wastewater disposal permit, or a part thereof, may be issued for the applicants property by the town. (see Subsection C below)

(2) A signed statement from the present property owner(s) clearly specifying any easements on the property that could potentially affect a subsurface wastewater disposal system or component thereof. If no such easements exist, a statement to this effect shall be submitted.

(3) Verification that the applicant has notified the abutting property owners by certified mail, return receipt required. Verification shall be clear, legible copies or the original, signed, USPS return receipts. A recent letter signed by the property owner(s) indicating that they are aware of the applicants pending permit and have seen the information listed below in Subsection C shall also be considered verification of receiving notice.

(4) If the town's most current tax records do not match the present owner, a copy of the deed shall be submitted including evidence of its recording at the Registry of Deeds.

B. For purposes of this section, abutting property owners shall be owner(s) of property within one hundred (100) feet of the applicant/owner's property. Owners of abutting property shall be those listed in the most recent tax records of the Town of Long Island.

C. For purposes of this section, abutting property owners shall be sent the following information: (Amended May 10, 2008)

(1) A letter from the applicant/owner describing the reason for requesting a permit.

(2) A copy of the Subsurface Wastewater Disposal Permit Application.

(3) The applicant/owner shall clearly indicate to the property owner(s) being sent notice that they must contact Long Island Town Hall in writing within fourteen (14) days of the notice being sent if they object to the permit being issued by the Town.

(4) Current days and hours of regular Town Hall operation including address, FAX and telephone number.

(5) A copy of this Section 7.2 of the Long Island Land Use Ordinance.
D. If an abutting property owner notified in accordance with these standards objects to the Town issued a SSWD permit, or is concerned that any system component may be too close to their well or property line, the concerned owner must notify the Town in writing within fourteen (14) days of the notice being sent. The concerned owner or agent must physically mark the well, property line, or other feature that is of concern or send a certified plot plan (scaled) to the LPI with well and septic locations clearly marked within twenty one (21) days of the notice being sent. If the feature is not marked clearly or scaled plot plan received within this twenty one (21) day period, the SSWD system may be designed and permitted based on information available.

E. The Town's LPI shall be authorized to issue a SSWD permit without following the standards established in this section only in extreme situations when, in the opinion of the LPI, irreparable harm and or an immediate public health risk may result if a permit is not issued immediately.

7.3 Reserved.

7.4 Accessory use. The term "accessory use" shall include only the following:

A. A subordinate use of land or building which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use. No "garage sale," "lawn sale," "attic sale," "rummage sale," or other similar casual sale of tangible personal property which is advertised by any means whatsoever whereby the public at large is or can be made aware of such sale, shall be deemed to be "customarily incidental" if such sale occurs after sales have been conducted on the same premises for six (6) or more days previously during the calendar year.

B. Off-street parking when serving conforming uses located in any zone, but not more than one (1) motor vehicle may be parked or stored per dwelling unit, except that three (3) motor vehicles may be parked on any lot used for a single or two (2) family house.

C. Home occupations as defined in Article 2 (Definitions) and Article 7 (Townwide Performance Standards).

D. The letting of rooms within an existing dwelling unit in any residential zone, provided that:

(1) There shall be no more than two (2) persons occupying such room or rooms;
(2) There shall be not more than two (2) rooms per dwelling unit occupied for such use; and
(3) There shall be no increase in the bathroom and/or kitchen facilities in the dwelling, and no such facility shall have been constructed in the immediately preceding two (2) years.
7.6 Bedroom Additions. Whenever a bedroom is to be added to any structure a Licensed Site Evaluator shall be retained, not at public expense, to inspect the subsurface sewage disposal system. If the system is found to be malfunctioning or not adequate to service the structure including the proposed addition while insuring the integrity of the groundwater, then a building permit will not be granted for the addition of the bedroom until the system is upgraded according to the Maine Subsurface Wastewater Disposal Rules. Such inspections shall be considered valid for three (3) years from date of issuance. For purposes of this section any room, attached or otherwise, in excess of one (1) kitchen, one (1) living room, one (1) dining room, one (1) family room/office, and bathrooms shall also be considered as if it were a bedroom.

7.8 Fences. In residence zones no wall or fence along a street line or within twenty-five (25) feet of a street line shall be more than four (4) feet in height, subject to the provisions of Article 5.3.B.

7.10 Home occupations.

A. Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

B. In connection with the operation of a home occupation, within a dwelling unit, the following requirements shall be met:

1. A home occupation shall not occupy more than five hundred (500) square feet of floor area or more than twenty-five (25) percent of the total floor area of such a dwelling unit, whichever is less, or in the case of licensed family day care homes, or home babysitting services, to accommodate not more than six (6) children plus two (2) children after school and having no nonresidential employees;
2. There shall be no outside storage of goods and materials nor shall there be exterior displays, or display of goods visible from the outside;
3. Storage of materials related to the home occupation shall count as a part of the occupancy limitations in subsection B.1. above, but shall not constitute a dominant part of such occupancy provided, however, storage of such materials or products in garages or other accessory structures is prohibited;
4. Exterior signs shall be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building;
5. Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs;
6. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
7. The home occupation shall not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objec-
tionable effects;

(8) There shall be no more than two (2) nonresidents employed in the home occupation, provided, however, family day care or home babysitting services shall have no nonresident employees;

(9) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood;

(10) No motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.

C. No residence shall be occupied, altered or used for any home occupation except the following:

1. Accountants and auditors;
2. Answering services (telephone);
3. Architects;
4. Artists and sculptors;
5. Authors and composers;
6. Computer programming;
7. Custodial services;
8. Custom furniture repair and upholstering;
9. Dentists, doctors, therapists, and health care practitioners;
10. Direct mail services;
11. Dressmakers, seamstresses and tailors;
12. Engineers;
13. Family planning services;
14. Hairdressers (limited to no more than two (2) hair dryers);
15. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics;
16. Interior decorators;
17. Lawyers, justices of the peace and notary publics;
18. Licensed family day care home or babysitting services;
19. Musicians or music teachers, including group instruction not to exceed six (6) students at any time but not including performances or band rehearsals, which shall meet the following requirements in addition to those set forth in subsection (1) of this section:
   i. Electronic amplification is prohibited;
   ii. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners or any combination of these or similar noise attenuation measures;
   iii. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.
20. Office facility of a minister, rabbi, or priest;
21. Photographic studios;
22. Professional counseling and consulting services;
23. Professional research services;
24. Sales;
25. Small appliance repair;
26. Snow plowing provided that only one (1) snow plow vehicle is stored on or gen-
erated from the site;
27. Special tutoring or instruction (not to exceed three (3) pupils at any given time);
28. Stenographic and other clerical services;
29. Fishing and related activities.

D. A home occupation that is not listed in paragraph (C) of this section but is similar to
and no more objectionable than those home occupations listed in that paragraph, shall
be permitted as a conditional use subject to the requirements of this Article 7 (Townwide
Performance Standards) and Article 13 (Zoning Board of Appeals) of this chapter. This
 provision shall not include veterinarians, kennels, animal raising, funeral homes, retail
uses including antique shops, restaurants, dancing studios, towing services, repair and
painting of automobiles as home occupations.

7.12 Limited Bed and Breakfast Restaurant.

A. Purpose. The purpose of Limited Bed and Breakfast Restaurant is to allow the secondary
and incidental use of a legally operating Bed and Breakfast to provide meals to persons
not staying overnight in the establishment.

B. The following standards must be met and maintained.

1. The number of persons served at any one time shall not exceed 1 1/2 (one and one-
half) times the number of persons the establishment has obtained all necessary
approvals for including but not limited to safety egress, water supply and disposal, and
all applicable local and state approvals.
2. The owners/operators are responsible for having the ability of the subsurface
wastewater disposal system checked to ensure that it is capable of absorbing the total
expected flow (gallons per day) for the establishment and any other plumbing fixtures
connected to the disposal system.
3. The owners/operators are responsible for obtaining the above referenced report from a
licensed engineer or site evaluator. This report shall be made available to the town's
Local Plumbing Inspector (LPI) at the town's request. If the town's LPI determines
that the disposal system is malfunctioning and is causing a public health hazard, the
LPI shall have the authority to order that the additional meals not be served until all
applicable standards have been met.
4. The owners/operators are responsible for ensuring that food and drink are served and
consumed on the premises. Any outdoor consumption of food or drink on the premises
must be specifically approved by the Planning Board.
5. The Planning Board shall have the authority to approve or deny any outdoor
consumption based upon the Site Plan standards and whether or not neighboring
properties would incur unreasonable adverse impact(s).
6. In no event shall any Limited Bed and Breakfast Restaurant sell food or drink that is
specifically designed to be consumed off the premises from the Bed and Breakfast
establishment (i.e. take-out). This specifically excludes drive-thru service.

7. In no event shall the Limited Bed and Breakfast Restaurant Use of a Bed and Breakfast establishment become the primary use of the property as determined by the Planning Board.

7.14 Manufactured Housing. Manufactured housing as defined and allowed under this Ordinance to be placed or erected on individual house lots or undeveloped lots where single family dwellings are allowed shall be required to meet the following design standards:

1. There shall be a pitched roof having a 2 in 12 or greater pitch covered with roofing shingles;
2. The exterior walls shall be covered with materials similar to traditional site-built houses. These materials may include clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles, or shakes or similar materials, but shall not include smooth, ridged or corrugated metal or plastic panels;
3. The minimum horizontal dimension shall be 14 feet;
4. The house shall have a permanent foundation; and
5. All plumbing and utility connections shall comply with local, state and national codes.

7.15 Parking Requirements. The Minimum Non-Residential Parking requirement shall be one (1) parking space for every three (3) patrons unless otherwise approved by the Planning Board.

7.15.5 Seasonal Recreational Facility Performance Standards. (Adopted May 14, 2005)

A. The primary season for the use of seasonal recreational facilities and activities in the District is the period from March 1st to November 30th. The maximum number or days or nights that the facility may be operated during the winter season, between December 1st and February 28th, is not to exceed forty (40) days or nights.

B. The primary use of properties in the District is for passive recreation purposes associated with recreational and educational programming.

C. Educational and Recreational facilities may include facilities such as picnic areas, campsites, tenting areas, lean-to shelters, facilities that support indoor and outdoor educational or recreational activities, structures for storage of recreational equipment, central dining/meeting facilities, bath houses, or caretaker’s dwellings.

D. All structures, campgrounds, campsites, lean-to shelters or developed areas must meet all setbacks.

E. Individual cabins for seasonal use are permitted provided that they are occupied only by participants in recreational or educational programs.

F. Cabins shall have a maximum occupancy of no more than ten (10) persons and no more than one cabin may be constructed for every one hundred and twenty thousand (120,000)
square feet of land area under common ownership. Property not owned in fee simple interest may not be counted as part of the 120,000 square feet of land area required for each cabin.

G. In no event shall any facility, structure, campground, campsite, lean-to shelter, developed area, or cabin owned or used by a recreational or educational program be used, rented or let to a person or party that is not a participant in a recreational or educational program.

7.16 Septic Inspections required at time of property title transfer. (Adopted May 5, 2001)

A. Prior to any title transfer of ownership of a lot containing a Subsurface Wastewater Disposal (SSWD) system or a structure connected to a SSWD system, the present owner of the property shall comply with the standards established in this section. A licensed Site Evaluator (SE) shall be hired, not at public expense, to test the SSWD system. The SSWD system will be tested with a standard die test, and the system evaluated to determine if it meets the standards in the Maine SSWD rules. The SE shall issue a written report of the findings, and a full copy of the report shall be forwarded to the Town within two weeks of the title transfer.

B. If the SE determines that the SSWD system is malfunctioning then the structure shall not be occupied until the system has been brought into conformance with the Maine SSWD Rules. In the event that the proposed title transfer is to occur between November and May and an adequate test is not able to be performed, the agreement between the present owner and the proposed owner shall ensure that funding sufficient to correct a malfunctioning system will be available.

C. The present owner may not transfer, sell or offer to transfer/sell, any lot containing a SSWD or structure connected to a SSWD system without advising the transferee/buyer of this requirement.

D. Noncompliance of this ordinance will result in an assessed fine of no less than $500 to the seller or current owner of the property. Assessment of fine does not release the seller or current owner from the requirements of Sections “A” and “B” of this section 7.16. (Adopted May 10, 2008)

7.18 Signs. (Adopted May 5, 2001)

(1) A permit shall be required for all non-residential signs, and the fee will be set by the selectmen.
(2) The supporting structure for the sign shall be the minimum necessary to support the sign.
(3) In no event shall roofs be utilized for any sign unless a sign is meeting applicable standards attached as a separate structure to the roof.
(4) Name signs shall be permitted, provided such signs shall not exceed 2 (two) signs per premises.
(5) Residential uses may display a single sign not over three (3) square feet in area relating
to the sale, rental or lease of the premises.

(6) Signs relating to trespassing and hunting shall be permitted, provided that no such sign shall exceed two (2) square feet in area.

(7) Signs relating to public safety as determined by the Public Safety Coordinator shall be permitted.

(8) Signs may be illuminated only by shielded, non-flashing lights. In no event shall signs be internally illuminated.

(9) House occupancy signs shall not exceed three (3) square feet.

(10) No freestanding sign shall extend more than ten (10) feet, and no sign shall extend higher than twenty (20) feet above the ground.

(11) Signs shall be located at least fifteen (15) feet from any property line or edge of the traveled way or ROW, whichever is most restrictive.

(12) Signs in the I-B zone relating to goods or 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.

(13) Signs relating to goods or services not sold or rendered on the premises shall be prohibited except temporary real estate signs may be allowed with written permission from the owner for properties for sale that do not have any frontage on a public road.

7.20 Temporary Occupancy Structures (Adopted May 5, 2001)

A. For the purposes of these standards, terms shall be defined as follows:*

(1) Temporary Structure: Any structure or unit, including mobile units or recreational vehicles, used for habitation purposes for a limited period during construction of a permanent residential dwelling.

(2) Storage of a temporary structure: Any temporary structure on a property not utilized for habitation purposes in the previous 30-day period.

B. Permits issued by the CEO shall be required for the use or storage of any temporary structure. The fee shall be determined by the selectmen.

C. Any use of a temporary structure shall meet and maintain all the following standards:

(1) The use of a temporary structure shall only be used for the period during construction of a permitted, permanent residential structure. A permit for a temporary structure for habitation purposes shall not be issued unless a permit for a permanent residential structure has been issued.

(2) A temporary structure may only be used for a maximum of two (2) six (6) month periods on the same property in any five (5) year period. The owner/applicant must demonstrate to the CEO that there is sufficient cause to grant the six (6) month permit.

(3) All applicable standards, specifically including wastewater disposal, must be met during the entire period that the temporary structure is utilized.

(4) The temporary structure shall meet all applicable standards for a permanent structure
or be removed from the property within three (3) months of the completion of the permanent residential structure.

(5) In no event shall a temporary structure remain on the property longer than fifteen (15) months in any five (5) year period including the time period referenced above unless all applicable standards for permanent structures are met.

(6) In no event shall the basement of any structure be utilized for habitation until the permanent residential structure is complete and the certificate of occupancy has been issued.

**7.22 Well Permits required.**

A. No well shall be drilled, dug, or created except in conformance with the standards established in this section and applicable State standards.

B. A well permit shall be required from the Long Island CEO prior to moving, replacing, or creating a well on Long Island.

C. No permit shall be issued for a well until the applicant has submitted the following information to the Long Island Local Plumbing Inspector (LPI);

(1) A signed statement from the present property owner(s) that abutting property owners have been notified as specified in this section that a well permit may be issued for the applicant's property by the town. (see Subsection E below)

(2) A signed statement from the present property owner(s) clearly specifying any easements on the property that could potentially be affected by a well. If no such easements exist, a statement to this effect shall be submitted.

(3) Verification that the applicant has notified the abutting property owners by certified mail, return receipt required. Verification shall be clear, legible copies or the original, signed, USPS return receipts. A recent letter signed by the property owner(s) indicating that they are aware of the applicant's pending permit and have seen the information listed below in Subsection E shall also be considered verification of receiving notice.

(4) If the town's most current tax records do not match the present owner, a copy of the deed shall be submitted including evidence of its recording at the Registry of Deeds.

D. For purposes of this section, abutting property owners shall be owner(s) of property within one hundred (100) feet of the applicant/owner's property. Owners of abutting property shall be those listed in the most recent tax records of the Town of Long Island.

E. For purposes of this section, abutting property owners shall be sent the following information:

(1) A letter from the applicant/owner describing the reason for requesting a permit.

(2) A copy of the Municipal Well Permit application if the permit application has been completed. If the application is not completed at the time when notification is being sent, a plot plan clearly showing the potential locations shall be included.

(3) The applicant/owner shall clearly indicate to the property owner(s) being sent notice
that they must contact Long Island Town Hall in writing within fourteen (14) days of the notice being sent if they object to the permit being issued by the Town.

(4) Current days and hours of regular Town Hall operation including address, FAX and telephone number.

(5) A copy of this Section 7.22 of the Long Island Land Use Ordinances.

F. If an abutting property owner notified in accordance with these standards objects to the Town issuing a Municipal Well Permit, or is concerned that any component may be too close to their well or property line, the concerned owner must notify the Town in writing within fourteen (14) days of the notice being sent. The concerned owner or agent must physically mark the well, property line, or other feature that is of concern or send a certified plot plan (scaled) to the LPI with well and septic locations clearly marked within twenty one (21) days of the notice being sent. If the feature is not marked clearly or scaled plot plan received within this twenty one (21) day period, the well system may be designed and permitted based on information available.

Section 7.23 Accessory Dwelling Units. (Adopted May 12, 2007)

A. The purpose of these provisions authorizing Accessory Dwelling Units is to provide enhanced opportunities to accommodate housing for family/relative members while protecting the single-family character of existing residential neighborhoods.

B. Any proposed Accessory Dwelling Unit must meet the following standards:

1. Accessory Dwelling Units shall be primarily accessed through the existing living area of the primary structure and all other entrances to the Accessory Dwelling Unit as may be required shall appear subordinate to the main entrance serving the existing dwelling.

2. All additions or reconfigurations related to an Accessory Dwelling Unit shall be designed to be subordinate in scale and mass to the design and massing of the main structure and shall be compatible with the architectural style and quality of the main structure.

3. Accessory Dwelling Units shall have at least five hundred (500) square feet of floor area and shall not exceed fifty (50%) percent of the floor area of the main dwelling unit. Floor area measurements for these purposes shall not include unfinished attic, basement or cellar areas, and shall not include shared hallways or other common areas.

4. A Single Family Dwelling containing an Accessory Dwelling Unit shall be served by a single electrical service.

5. Only one (1) Accessory Dwelling Unit is permitted per lot and must be incorporated into the existing dwelling.
6. Accessory Dwelling Units shall not be permitted for any nonconforming structure or use, where the nonconformity is due to the use of the premises. Accessory Dwelling Units may be permitted in nonconforming structures that are nonconforming due to dimensional requirements As long as the proposed Accessory Dwelling Unit and structure conform to the other requirements for Accessory Dwelling Units under this Section.

7. (Amended May 9, 2009) Prior to permitting an Accessory Dwelling Unit in either an existing structure or a new structure, the Board of Appeals shall require the applicant to hire a licensed Site Evaluator (SE), not at public expense, to certify that any existing subsurface wastewater disposal system (SSWD) proposed to be used, or a new system to be built, meets or will meet the current standards of the Maine State Plumbing Code Subsurface Wastewater Disposal Rules for the number of bedrooms being proposed for the structure. A full copy of the results shall be included in the Conditional Use Permit Application and submitted to the Board of Appeals.

7.24 Multi-Family Dwellings. (Adopted May 12, 2007)

A. To permit a Multi-Family Dwelling in an existing structure or a new structure, the applicant must provide a report and certification from a licensed Site Plan Evaluator (SE), not at public expense, certifying that any existing or proposed subsurface wastewater disposal system (SSWD) meets or will meet the current standards of the Maine State Plumbing Code Subsurface Wastewater Disposal Rules for the proposed Multi-Family Dwelling. A full copy of the report and certification shall be provided as part of the applicant’s Conditional Use Permit Application.
ARTICLE 8: ADMINISTRATION

8.1 Administration of Permits

A. Building Permits. A site plan showing the dimensions of the lot and of all buildings, yards and parking spaces, existing or proposed, shall accompany each application to the Code Enforcement officer for a building permit or certificate of occupancy. Site plans of all off-street loading and off-street parking, whether or not such parking is located on the same lot with the building for which it is required or which it is to serve, shall be provided.

B. Certificate of occupancy required. No building or part thereof shall be constructed, altered, enlarged or moved unless a permit for such action has been issued by the code enforcement officer. Applications for building permits and certificates of occupancy required by the building code shall also serve as applications for permits required by this article. After the building, structure or part thereof has been completed, altered, enlarged or moved, a certificate of occupancy shall be obtained for the proposed use before the same may be occupied or used. A certificate of occupancy shall be required for any of the following:

(1) Any conversion of a seasonal residential dwelling to a year round residential dwelling.

(2) Change in the use of a nonconforming use, whether of land or buildings;

(3) Occupancy and use, or change of use, of vacant land, except for the raising of crops;

(4) Change in the use of an existing building, whether or not alterations are involved, from any use in the following list to any of the other uses on the list:

a. Residential;
b. Retail;
c. Transportation;
d. Institutional;
e. Office;
f. Other commercial;
g. Water-dependent use;
h. Marine use.

(5) Any building lot shall have an approved sewage disposal system plan designed by a Licensed Site Evaluator prior to the issuing of a building permit, except for a fish house. A gray water system must be in place before issuance of an occupancy permit.

C. Shoreland Permits- (Reserved)

D. Fee Schedule

1. Building Permit Fees- (Reserved)
2. Zone Change Fees. Applicants for zone changes will be required to put $1000 into an escrow account from which payment will be made for all town costs associated with the application, including but not limited to the costs of new mapping, copying costs, and costs of all notices, including newspaper publication. Money remaining in the escrow account after payment of all expenses associated with the application shall be returned to the applicant. The fee for zone change applications will be waived in the case of an application submitted by any governmental body.

8.2 Enforcement. The code enforcement officer is authorized to institute or cause to be instituted by the counsel in the name of the town any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this article.

A. Code Enforcement Officer. It shall be the duty of the code enforcement officer to enforce the provisions of this article. No permit or certificate of occupancy shall be issued for the construction, alteration, enlargement, moving, use or change of use of any building, structure, or part thereof, or for the use or change of use of any premises, unless the plans and intended use indicate that the building, structure or premises is to conform in all respects with the provisions of this article.

B. Legal Actions and Violations. Any person being the owner or occupant of, having control of or the use of any building or premises or part thereof, who violates any of the provisions of this article, shall be guilty of an offense.

C. Role of the Zoning Board of Appeals- (Reserved)

D. Performance Guarantees- (Reserved)
ARTICLE 9: CHANGES and AMENDMENTS

Zone change fees.

Applicants for zone changes will be required to put $1000 into an escrow account from which payment will be made for all town costs associated with the application, including but not limited to the costs of new mapping, copying costs, and costs of all notices, including newspaper publication. Money remaining in the escrow account after payment of all expenses associated with the application shall be returned to the applicant. The fee for zone change applications will be waived in the case of an application submitted by any governmental body.
ARTICLE 10
SITE PLAN REVIEW

REPEALED AND REPLACED MAY 14, 2005

10.1 PURPOSE

The purpose of this Article is to provide for Site Plan Review of commercial, retail or institutional projects which are of a scale or magnitude that they may affect the physical or visual environment, the provision of public services, or the value and rights of adjoining properties, and through the Site Plan Review process, to help protect and promote the health, safety, property interests and general welfare of the citizens of the Town of Long Island.

10.2 APPLICABILITY

Except as expressly authorized in this Article, Site Plan Review and approval by the Planning Board shall be required for the following activities:

A. Proposals for new construction of commercial, retail, institutional or non-residential buildings or structures, including accessory buildings or structures:
   1. when the total floor area of the proposed new construction seeks to construct a structure or building with more than seven hundred fifty (750) square feet of floor area;
   2. when the applicant for a building permit to construct a building or structure having a total floor area of seven hundred fifty (750) square feet or less has requested a waiver of one or more standards of this Ordinance, Site Plan Review; or
   3. when the total floor area of the proposed new construction is seven hundred fifty (750) square feet or less and no waiver is requested, the Code Enforcement Officer shall perform Site Plan Review or, at his or her discretion, refer the application to the Planning Board for Site Plan Review.

B. Proposals for the enlargement of commercial, retail, institutional or non-residential buildings or structures, including accessory buildings or structures:
   1. when an applicant proposes to enlarge a non-residential building or structure, including accessory buildings or structures, such that the building or structure will result in a building or structure with more than seven hundred fifty (750) square feet of total floor area within any three (3) year period;
   2. when existing non-residential structures or buildings are to be added to or expanded, including accessory buildings or structures, so as to create more than seven hundred fifty (750) square feet of total floor area;
3. when the proposed enlargement will result in a total floor area for a building or structure of seven hundred fifty (750) square feet or less within any three (3) year period, and the applicant seeks a waiver of one or more standards of this Ordinance; or

4. when the square footage of a proposed enlargement is seven hundred fifty (750) square feet or less within a three (3) year period, and no waivers are requested. In such cases the Code Enforcement Officer may perform Site Plan Review or, at his or her discretion, refer the application to the Planning Board for Site Plan Review.

C. Proposals to convert a current residential use to a non-residential use.

D. Proposals to pave, strip, grade or remove earth materials from vegetated areas of more than one thousand (1,000) square feet during any three (3) year period.

E. Proposals to change the use of an existing structure to a different use when the total floor area for the proposed new use is more than seven hundred fifty (750) square feet.

F. Any amendments to a previously approved Site Plan Review.

G. Proposals seeking changes from a current use to a more intensive use.

H. Proposals for any of the uses listed in Article 3, Zoning District Standards, and any other uses or activities that require Site Plan Review under the Town Ordinances.

10.3 ADMINISTRATION

A. No building permit may be issued for, commercial, industrial and institutional uses or projects until the submissions plans, drawings, sketches, and other documents required under this Article have been reviewed and approved by the appropriate reviewing authority and all fees related to independent reviews or studies as may be required of the applicant by the Planning Board have been paid.

B. Construction, site development and landscaping shall be completed by the applicant strictly in accordance with the plans, drawings, sketches, and other documents submitted by the applicant and as approved by the Planning Board unless such standards and specifications are later amended by Planning Board as an amendment of the Site Plan Review approvals or conditions. Nothing in this article shall be construed to prevent ordinary maintenance, upkeep or repair of existing structures and facilities as long as such activities are in conformance with the Ordinances of the Town of Long Island.

C. When a proposed development requires both Site Plan Review and Subdivision Review, the Applicant shall make a concurrent application and the Planning Board shall endeavor to conduct a concurrent review. The procedures and standards set forth in the
Subdivision Ordinance shall be required, followed and applied. The procedures and standards under this Site Plan Review Article shall also be required, followed and applied.

D. The following procedures and requirements govern all applications for Site Plan Review:

1. Applications for Site Plan Review shall be first submitted to the Code Enforcement Officer on forms provided for this purpose. Applications shall be made by the owner of the property or an agent, as authorized in writing by the owner, and must be accompanied by the payment of the application fee.

2. Before submitting a formal application for Site Plan Review, the applicant or their authorized agent may request a pre-application conference with the Planning Board or its designated staff to discuss the proposed development, the required submissions and review standards and how the development will comply with Town standards. Comments by the Planning Board or its staff at such meetings are advisory in nature; and the Planning Board or its staff at a pre-application conference shall take no formal action.

3. The Planning Board is authorized to impose application fees as set by the Selectmen, as amended, and as set forth in the Town Fee Schedule.

4. The Planning Board may require the applicant to undertake any studies that it deems reasonable and necessary to insure that the requirements of Site Plan Review or the Town’s Ordinances will be met. All costs of all such required studies shall be borne solely by the applicant. The Planning Board will require applicants or their authorized agents to deposit funds in escrow in an amount sufficient to cover the costs of such studies or professional review services. All such consultants retained for such services shall be licensed or otherwise qualified to provide the required information or services and shall be selected from candidates that are mutually acceptable to the Town and the applicant. For projects with floor areas below 3,000 square feet the professional review fees shall be as designated in the Town Fee Schedule. For projects with floor areas in excess of 3,000 square feet the fee shall be as designated in the Town Fee Schedule*. Payment of such funds is mandatory and must be made in advance of the Planning Board’s commencement of final review of a Site Plan Application. The balance of any funds deposited with the Town for required studies or consultations that remain after final payment for the required studies or consulting services will be refunded to the applicant or his agent.

5. To schedule a hearing on an application requiring Site Plan Review, applicants must submit a letter of request to proceed at least thirty (30) working days before a scheduled Planning Board meeting.

6. At least twenty-one (21) days before such a scheduled hearing, applicants must file with the Planning Board eight (8) copies of their complete
application for Site Plan Review, together with all other documents as required for Site Plan Review.

7. Applications that do not include the submissions, studies or documents required by the Planning Board or as required under this Article will not be scheduled for hearing or review by the Planning Board and will be returned to the applicant by the Code Enforcement Officer with notification of the deficiencies and identification of the additional information or submissions that are required for a complete application.

8. The Planning Board may require the applicant to post a performance guarantee to cover the cost of required improvements before granting final approval of a Site Plan Review application. The performance guarantee shall be in the form of a deposit, performance bond, escrow agreement, irrevocable standby letter of credit or other form of surety in form and amount acceptable to the Planning Board, the Town Attorney and Town Selectmen. In no event shall the amount of the performance guarantee be less in amount than the anticipated costs, including contingencies and inflation, to fully complete the improvements required as conditions of approval under a Site Plan. The applicant shall also be required to pay to the Town a non-refundable performance guarantee administrative fee in the amount established by order of the Selectmen and as set forth in the Town Fee Schedule before the Planning Board may issue final approval of a Site Plan Review application.

9. Upon receipt of Site Plan Review Application, the Planning Board shall determine the completeness of an application and shall make such a finding during its preliminary review of an application.

10. Before taking final action on any Site Plan Review application, the Planning Board shall hold at least one public hearing to afford the public an opportunity to comment on the application. Notice of the date, time, and place of such hearing shall be published in a newspaper of local circulation at least ten (10) calendar days before to the hearing. At least ten (10) calendar days before the public hearing, the applicant must provide notice to all persons owning or occupying properties within one hundred (100) feet of the site of the proposed activities that are the subject of Site Plan Review. The notice of the proposed project and Site Plan Review shall be given by providing a summary of the proposed project through certified mail, return receipt requested, addressed to all persons who own or occupy properties within 100 feet of the property lines of the proposed site of the project or development. The applicant shall submit to the Planning Board, as evidence of compliance with this notification requirement, copies of the certified mail receipts. The identification of the owners or occupants of abutting properties, if not known to be otherwise, shall be as listed in the most up to date tax records of the Town of Long Island.
11. The Planning Board, unless the applicant otherwise extends the review period, shall act on all applications within ninety (90) days following its determination that the application is complete. The Planning Board’s receipt of the studies and reviews as it may require from the third party consultants as necessary for Site Plan Review or to ensure that the proposed activity will be in conformance with Town Ordinances shall be part of the Planning Board’s determination of completeness of an application. The Planning Board final action on an application for Site Plan Review shall be to approve, approve with conditions, or disapprove the application as submitted or amended. If the Planning Board votes to disapprove an application, it will notify the applicant or authorized agent in writing of the specific reasons for the disapproval.

12. Proposals for Site Plan Review must also comply with all other applicable state and local regulations. Where review by federal or state agencies or other local boards are required, the applicant shall endeavor to conduct such reviews concurrently and consistent with the Planning Board’s review of the application for Site Plan Review. Where the approval of the Zoning Board of Appeals is required, such approval must be obtained before the Planning Board undertakes consideration of an application for Site Plan Review. Final approval by all other federal or state agencies or boards shall also be required before the Planning Board takes final action on an application for Site Plan Review.

10.4 SUBMISSION REQUIREMENTS

Unless waived or otherwise authorized by the Planning Board, the applicant or his or her authorized agent must submit the following as part of the application for Site Plan Review:

A. A fully executed original and eight (8) copies of the application for Site Plan Review.

B. Eight (8) copies of a site plan drawn at a scale sufficient to allow review of the items listed under section 10.5 CRITERIA AND STANDARDS of this Article, but in no event shall the scale of such plan be more than fifty (50) feet to the inch for the portion of the tract of land being proposed for development. The applications submissions shall also include or show the following:

1. Owner’s name, address, and signature.

2. Names and addresses of all abutting property owners.

3. A sketch map showing general location of the site within the Town.

4. A plan depicting the configuration and boundaries of all contiguous properties, including properties under the control of the owner or applicant
regardless of whether all or part of such land area is being developed at this time.

5. The bearings and distances of all property lines and the source of this information.

6. Zoning classification(s) of the property and adjacent properties, and the location of zoning district boundaries if the property is located in two or more zoning districts.

7. A map or plan showing the soil types and location of soil type boundaries as certified by a registered engineer or certified soil scientist.

8. The location, with corresponding setbacks, and depiction of the setbacks as required under the Town Ordinances for all existing and proposed buildings and structures (including size and height), driveways, sidewalks, decks, walks, patios, other impervious areas, parking spaces, loading areas, open spaces, large trees, existing and proposed drainage courses, signs, exterior lighting, service areas, easements, power or other utility lines, wells on the property and on all adjacent properties, fences and other landscaping features. The lot area and lot coverage of the parcel, the street frontage and the relevant zoning requirements governing minimum lot size, set backs and frontage for the site.

9. The location, size, and character of all existing and proposed signs and exterior lighting.

10. The location of all buildings within one hundred (100) feet of the parcel to be developed and the location of intersecting roads or driveways within 100 feet of the parcel.

11. A plan drawn with two (2) foot contour intervals that shows existing and proposed topography and grading of the site

12. A plan showing the location of Shoreline Zoning District boundary, if applicable.

13. If the property is within two hundred fifty (250) feet of shoreland areas the Location of Maximum Spring Tide Level and elevations as may be required to demonstrate the suitability of the property or proposed project under floodplain management and shoreland zoning regulations. (Amended May 10, 2008)

14. The location of existing or proposed well(s), subsurface wastewater disposal field(s), tank(s), and piping/wiring serving the wastewater disposal system on the property.
15. The location of any wells on the property, adjacent or within three hundred (300) feet of the property on nearby properties that are classified as public drinking water sources.

C. A storm-water drainage assessment and plan showing and providing:

1. The existing and proposed method of handling storm water run-off.

2. The direction of current and proposed flows of storm water run-off depicted by arrows.

3. The location, elevation, capacity and size of existing and proposed catch basins, dry wells, drainage ditches, swales, retention basins, storm sewers and other storm water control or drainage improvements.

4. The engineering studies and calculations relied on to determine the adequacy of the site and proposed improvements to provide suitable drainage based upon a 25-year storm frequency, to determine if the project will significantly alter existing drainage patterns on the site or adjacent properties due to the proposed activities or development, including but not limited to such factors as the amount of proposed new impervious surface (such as paving and building area), proposed changes to grading, proposed new structures or improvements, etc.

D. A summary description of the existing and proposed utilities that will be available to service the property and a plan depicting the location and scope of water and wastewater disposal systems, including the size and location of wells, piping, holding tanks, leach fields, etc. as will be necessary to support water and wastewater systems.

E. A landscaping and planting schedule coordinated with the site plan that lists the number and varieties and sizes of trees, shrubs, and other plants that are to be planted on the site which shows the planting arrangements and planting schedule.

F. Building plans showing, at a minimum, the first floor plan and all elevations, together with a schedule detailing the type, color, and texture of all exterior materials (roofing, siding, etc.) for all proposed buildings and structures and all accessory buildings and structures.

G. Copies of any proposed or existing deeds for easements, covenants or deed restrictions that currently impact or that are proposed to control or preserve activities on the subject property.

H. Documentation from a Maine licensed Site Evaluator to be submitted to the Town’s Local Plumbing Inspector (LPI) that is sufficient to determine that the existing or proposed Subsurface Wastewater Disposal (SSWD) systems are or will be adequate to meet the cumulative or reasonably anticipated needs of the current or proposed use(s) or activities. For the purposes of
this submission requirement sufficient documentation means a completed HHE-200 Form or a scaled plan and documentation prepared by a Maine Licensed Site Evaluator that certifies that the existing or proposed Subsurface Wastewater Disposal system for the new or expanded use(s) meets all applicable Maine Subsurface Wastewater Disposal Rule Standards.

I. Copies, of all applicable State approvals, licenses or permits. The Planning Board may approve site plans subject to the issuance of specified State licenses and permits in cases where it determines that it is not feasible for the applicant to obtain them at the time of Site Plan Review.

J. The Planning Board may, after consideration and discussion, waive or modify any of these submission requirements when the Board determines that the scope or scale of the proposed project or activity is of such a nominal magnitude that the risks from the proposed activity to public safety, adjacent property owners or the Town is so minimal as to make the information or submissions unnecessary or that the proposed activity by its scope, nature or location does not necessitate review of certain criteria.

10.5 CRITERIA AND STANDARDS

The following criteria and standards are to be used by the Planning Board in reviewing applications for Site Plan Review and shall serve as minimum requirements for approval of a Site Plan. In all instances, the burden of proof shall be on the applicant to demonstrate compliance with each standard.

A. Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation where desirable, and by keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge, or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural and existing visual environment of the skyline of the ridge. Preserving existing vegetation, requiring buffering landscaping and the creative siting or location of buildings or structures will be considered as potential methods of preserving scenic vistas.

B. Relation of Proposed Buildings to the Environment: Proposed structures shall be located to the greatest practical extent so that they relate harmoniously to the site, the terrain and to existing buildings in the vicinity with visual relationships to any proposed buildings or activities. Special attention shall be given to the scale of proposed buildings or structures, the massing of proposed buildings or structures, and such natural features as the slopes, orientation, soil types, and drainage courses or the site and adjacent properties.

C. Vehicular Access: The proposed location of vehicular access points to a property shall be designed to minimize adverse impacts on existing vehicular and pedestrian traffic patterns. Proposed site layout shall give special consideration to the location, number, and control of access points, the adequacy and safety of adjacent streets, traffic flow, sight distances, turning lanes, pedestrian-vehicle contacts, and existing or proposed traffic controls.
D. Parking and Circulation: The layout and design of proposed vehicular and pedestrian circulation, including walkways, interior drives, and parking areas, shall be designed to provide appropriate general interior circulation, to separate pedestrian and vehicular traffic, to provide appropriate service access to loading areas, and provide for arrangements and use of parking areas that minimize adverse impacts on adjacent properties, adjacent public streets and pedestrian ways.

E. Surface Water Drainage: Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down stream conditions, or the public storm drainage system and shall be held to a zero percent or less off-site increase after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five (25) year storm frequency.

F. Utilities: Adequate provisions shall be made to demonstrate that the project and site will be adequately served with systems for the supply of water and wastewater disposal. When feasible utilities, including electric, telephone, and other utility lines shall be installed underground. Utility installations that are installed above ground shall be installed and located so as to minimize visual or other adverse impacts on neighboring properties and the site.

G. Advertising Features: The size, location, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures, or features, shall not detract from the design of proposed buildings and structures and shall not unduly interfere with the uses, aesthetics or enjoyment of surrounding properties.

H. Special Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures or similar accessory areas and structures shall be subject to setbacks, screen plantings or other screening methods as are reasonably necessary to protect the scenic, visual and aesthetic rights and resources enjoyed by adjacent properties and to prevent such activities from creating conditions that are inconsistent with existing visual features in the neighborhood of the site.

I. Exterior Lighting: All exterior lighting shall be designed to minimize adverse impacts on neighboring properties. Adverse impacts from proposed lighting is to be judged in terms of hazards to people and vehicular traffic and damage to the value on adjacent properties. Lighting should be shielded from public ways and waterways except for necessary security. Lighting shall be directed and shielded to minimize glare, stray lighting or reflection on adjacent properties, public ways, the traveling public and waterways.

J. Emergency Vehicle Access: Adequate provisions shall be included in the site plan to provide and maintain convenient and safe emergency vehicle access to all buildings and structures at all times. The Town’s public safety officials (fire, rescue and law enforcement) shall provide the Planning Board with assistance in making such determinations.

K. Landscaping/Buffering: Adequate landscaping and vegetative buffering shall be provided to define, buffer and screen off-street parking areas from the public right-of-way and abutting properties, to enhance the siting of building(s) and improvements, and to minimize the potentially adverse impacts of light, noise, congestion or other impacts from the proposed uses on
existing neighboring land areas. Applicants are directed that particular attention must be paid to the use of planting to break up parking areas. Landscaping and vegetative buffering shall be included as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping and vegetative buffering designs should include creative use of trees, bushes, shrubs, ground cover, plants and the use of grading, fencing and building materials to result in buffering measures that protect the public and adjacent properties from potentially adverse visual and noise impacts.

L. Environmental Considerations: The site plan shall be designed in accordance with applicable federal, state and town regulations designed to protect the natural environment.

1. Applicants shall make adequate provisions to control and contain noise, vibrations, smoke, heat, glare, fumes, dust, toxic emissions, odors or electromagnetic interference that may be generated by proposed uses or activities on the site; such impacts shall not be readily detectable at any point along the lot lines of a site or produce a public nuisance or hazard.

2. Applicants shall demonstrate that any proposed storage and use of hazardous materials on the site will comply with applicable local, state and federal standards.

M. Adequacy of Subsurface Wastewater Disposal (SSWD) system:

Based on information provided by the applicant or their representative to the Town and reviewed by the Town Licensed Plumbing Inspector (LPI), the Planning Board will make a finding that the existing or proposed Subsurface Wastewater Disposal system is adequate to meet the cumulative proposed use(s). The LPI shall assist the Planning Board in making this determination and shall provide written documentation to the Planning Board to allow it to determine the adequacy of the Subsurface Wastewater Disposal system. In the event that alterations to the existing Subsurface Wastewater Disposal system or a new system is required, the Planning Board shall require as a specific condition of approval that the necessary alterations/installation is completed to the LPI's satisfaction before an Occupancy Permit is issued.

N. Conservation, Erosion and Sediment Control: The following measures shall be included as part of any Site Plan Review and approval where the Planning Board deems such criteria necessary:

1. The removal or stripping of vegetation, re-grading or other development shall be completed in such a way as to minimize erosion and with the applicant using all appropriate erosion and soil conservation control measures.

2. Proposed developments shall preserve as reasonably practical all salient existing natural features at the site. Applicants shall keep cut-fill operations to a minimum and ensure that development and construction activities are consistent with the site topography so as to minimize erosion potential and
adequately control the volume and velocity of surface water runoff from the construction activities or proposed development.

3. Whenever feasible, naturally occurring vegetation on the site shall be preserved, protected and augmented.

4. Disturbed soils shall be stabilized as quickly as practicable.

5. Temporary vegetation or mulching shall be used to protect exposed soil areas during development.

6. Planting and installation of permanent (final) vegetation and mechanical erosion control measures are to be installed as soon as practical on the site.

7. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other accepted soils conservation and erosion control methods.

8. Whenever erosion and sedimentation results from development, stripping vegetation, re-grading or other development activities, it is the responsibility of the applicant or his or her developer to remove it from all adjoining properties and surfaces, drainage systems and watercourses and to repair any damage to adjacent properties, including public ways. The Applicant or his or her developer shall be solely responsible for the costs of such remedial actions and such actions shall be completed as quickly as possible.

9. When development activity requires and applicant to impact, change or cross a communal stream, watercourse, swale, floodway or right-of-way, it is the responsibility the applicant or his or her contractor to return such areas to their original or equal condition after such activity is completed. The Applicant or his or her developer shall be solely responsible for the costs of restoring such areas to the area's condition before such construction activity and such redial and restorative actions shall be completed as quickly as possible.

10. Maintenance of drainage facilities or watercourses originating and existing completely on private property shall be the sole responsibility of the owner up to the point of open discharge at the property line or to the point of joining a communal watercourse within the property.

O. In completing Site Plan Review the Planning Board, where applicable, shall also apply the Performance Standards set forth in Article 3, 4, 7, and 12. The following performance standards, though not exclusive, are particularly relevant to the Site Plan Review process: Off-street Parking, Off Loading Access to Property, Buffer Zones and Signs.
P. Any person aggrieved by a final decision of the Planning Board on an application for Site Plan Review may appeal the decision to the Superior Court according to the timing, procedures and requirements of Rule 80B of the Maine Rules of Civil Procedure.

10.6 TIME LIMIT FOR CONSTRUCTION OR CHANGE OF USE

Applicants must commence construction of new structures, building additions, or site improvements as approved under Site Plan Review and this Article within one (1) year of the date of the approval or Site Plan approval shall become lapse and become null and void. The one (1) year period for commencement of construction or use shall not be extended or affected in any way by the Planning Board’s subsequent amendment, change, erasure, modification or revision to a finally approved Site Plan unless the Planning Board grants in writing a specific extension or enlargement. The Planning Board shall have the authority to grant extensions of up to one (1) year to a final Site Plan approval if the applicant demonstrates good cause for the extension and requests the extension before expiration of the one-year period. In granting extensions the Planning Board may impose such additional conditions as the Planning Board deems appropriate under the circumstances.
ARTICLE 11: SUBDIVISIONS

A. Authority and purpose.

This article is adopted pursuant to the terms and provisions of C.M.R. 241., as amended. The purpose of this article is to provide for the harmonious and economic development of the town; for the orderly subdivision of land and its development; for the orderly development of the general area surrounding such subdivision; for the coordination of streets within the general area; for adequate provisions for drainage, flood control, light, air and other public purposes; for the adequate and proper installation of streets, drainage, subsurface wastewater disposal systems, water and other utilities and facilities; for the dedication to the town of land for streets or other public purposes or the transfer to the town of easements or other rights or privileges; for the reservation for the town of land to be acquired for public facilities; and to protect public safety.

B. Jurisdiction.

This article shall govern each and every subdivision of land within the limits of the town unless specifically exempted in this Article 11. When application is made for the resubdividing of a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the owner of rights in the recorded subdivision.

C. Definitions. The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Comprehensive plan shall mean any part or element of the comprehensive plan for the town as adopted by the town meeting in May of 1995.

Cul-de-sac or dead-end street shall mean with only one (1) outlet.

Easement shall mean a right, privilege or liberty which one has in land owned by another for some special and definite purpose.

Engineer shall mean a registered professional engineer in good standing with the state board of registration for engineers.

Freshwater wetland shall mean freshwater swamps, marshes, bogs, vernal ponds, and similar areas which are:

(1) Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
(2) Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

**Lot** shall mean a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision of record or survey map or by metes and bounds, for the purpose of sale or lease to another.

**Performance guarantee** shall mean a surety bond, letter of credit or escrow account in an amount and form meeting the requirements of this Article 11.

**Permanent marker** shall mean a granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the code enforcement officer.

**Planned unit development** shall mean a residential subdivision consisting of attached dwellings or a series of attached dwellings intended for separate ownership, with open spaces, recreational areas, access ways and buildings which are designed, built and controlled in accordance with a unified development plan.

**Recording plat** shall mean the completed subdivision plat in form for approval and recording.

**Roadway** shall mean that portion of a street devoted to vehicular traffic.

**Sidewalk** shall mean that portion of a street not included in the roadway, and devoted in whole or part to pedestrian traffic.

**Sketch plan** shall mean a very simple layout to show the location of the subdivision to gain informal comments of planning board.

**Street** shall mean a public way for vehicular and pedestrian traffic.

**Subdivider** or applicant shall mean any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

**Subdivision** shall mean the division of a lot, tract or parcel of land into three (3) or more lots, including lots of forty (40) acres or more, within any five-year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in 30-A M.R.S.A. Section 4401. The term subdivision shall also include the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five-year period and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the
purposes of this paragraph. A dwelling unit shall include any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing condominiums, time-share units and apartments.

**Subdivision plat** shall mean a plan of the proposed subdivision for presentation to the planning board and the public.

**Surveyor** shall mean a qualified registered surveyor of good standing with the state board of registration.

**Tract (or parcel) of land** shall mean all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

**Vicinity sketch** shall mean a sketch of the proposed subdivision location, not necessarily drawn to scale, showing the proximity of the subdivision to surrounding streets and highways.

**D. Guidance to subdivider.**

The purpose of the preapplication procedure is to afford the subdivider an opportunity to avail himself of the advice and assistance of the planning board, and to consult early and informally with the board before preparation of the subdivision plat and before formal application for its approval, to insure the development of a subdivision plan with mutual benefits for the subdivider and the town.

**E. Procedure for approval of a subdivision.**

1. Application for approval:

   a. To obtain approval of a proposed subdivision the subdivider or applicant shall prepare for the planning board a subdivision plat, a vicinity sketch, and a recording plat in accordance with the requirements and standards established by this article.

   b. The sketch plan may be prepared for planning board review if desired by the applicant prior to formal submission of the subdivision plat.

   c. The subdivider shall supply and submit fifteen (15) copies of the complete subdivision plat and the vicinity sketch and all other communications to the planning board at least fifteen (15) days prior to a regularly scheduled meeting of the planning board, to be in order for consideration by the board at the meeting.

   d. The planning board shall forward a copy of the subdivision plat and vicinity sketch to the code enforcement officer, selectmen, and fire department, all of which shall submit recommendations to the planning board by the time of the initial hearing on the subdivision plat.
(e) Prior to the date upon which the planning board meets to consider the subdivision plat the applicant shall pay all costs incurred in providing public notice. The planning board shall determine the amount of this fee based on the actual costs incurred in newspaper advertising and postage, and shall also be responsible for collecting and accounting for such fee. Public notice in the form of newspaper advertisement shall be provided for any proposed subdivision that contains three (3) or more lots.

(f) The selectmen may from time to time establish by order reasonable application fees to defray the costs of reviewing subdivisions.

(2) Timing of subdivision review: A public hearing shall be commenced within thirty (30) days following the receipt of a complete subdivision application. The planning board shall notify the applicant in writing either that the application is complete or, if it is determined to be incomplete, the specific additional materials needed to make it a complete application. The planning board shall render its decision on any application submitted to it within sixty (60) days following receipt of a complete application, or such other time as may be mutually agreed to by the planning board and the applicant.

(3) Engineering requirements:

(a) The applicant shall furnish the code enforcement officer with all engineering data and plans necessary for the completion of the required improvements, as enumerated in section Article 11 Subsection F.2. Such plans may be furnished apart from but at the same time as the subdivision plat and vicinity sketch and shall be certified by a registered professional engineer.

(b) The code enforcement officer shall review the plans submitted as required in subsection (c)(1) above and shall approve, approve conditionally, or disapprove same within ten (10) days of submission as to whether such plans are in conformance with the standards set forth in this article.

(4) Subdivision plat approval: The planning board shall approve, approve conditionally or disapprove such subdivision plat at a public meeting. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the planning board may require the subdivider to submit a revised subdivision plat. If the planning board should disapprove the subdivision plat, the reasons for such action shall be stated and given in writing to the subdivider, and the board may state the conditions under which the proposed subdivision would be approved. One (1) copy of the subdivision plat as acted upon by the planning board shall be retained in its office, one (1) copy forwarded to the code enforcement officer and one (1) copy returned to the subdivider.

(5) Effect of subdivision plat approval: Receipt of the approved copy of the subdivision plat of the subdivider is not authorization that s/he may proceed with the construction of any improvements. No construction will proceed until the recording plat has been approved by the planning board and has been properly recorded as required herein.
(6) Recording plat approval:

(a) The applicant shall submit the recording plat and fifteen (15) copies thereof to the planning board at least fifteen (15) days prior to the date of the meeting of the planning board at which it is intended to be considered, which copies shall be distributed as hereinafter provided.

(b) Consideration of the recording plat, however, shall not take place until approvals required in subsections (c) and (d) are obtained.

(7) Recording:

(a) When the recording plat is approved, the subdivider shall pay the actual cost of recording and reproducing five (5) copies of the plat, one (1) of which shall be on mylar for the code enforcement officer records.

(b) The recording plat shall be recorded in the office of the county registry of deeds by the subdivider.

(c) The registry book and page numbers will then be recorded on the five (5) copies of the plan, of which one (1) shall be kept at the office of the planning board, one (1) sent to code enforcement officer, one (1) copy on mylar sent to the public works file, one (1) to the assessor's file and one (1) to the subdivider.

(d) Unless the subdivider shall record his or her approved recording plat within three (3) years after the planning board has approved the subdivision plat, the recording plat approval shall become null and void. The preceding sentence notwithstanding, if the planning board's initial approval of a subdivision is based in part upon the granting of a variance from any of the applicable subdivision approval standards, no such variance shall be valid unless that fact shall be expressly noted on the face of the recording plat and shall be noted in a certificate, each of which shall conform to 30-A M.R.S.A. Section 4406, and such recording plat or such certificate or both of them are recorded in the Cumberland County Registry of Deeds within ninety (90) days of final subdivision approval.

F. Plat requirements.

Each and every modification of the information required to be shown on the plat in this section shall be applied for in writing by the subdivider. The decision of the planning board on such request shall be final.

(1) Information on subdivision plat. The following information shall be shown on one (1) subdivision plat unless otherwise indicated:

(a) Date, north point, title and graphic scale. Scale shall not be more than sixty (60)
feet to the inch unless lots are more than an acre, but in no event more than one hundred (100) feet to the inch;
(b) Based on a recent survey by the subdivider, existing contours at two (2) feet intervals or as otherwise required by the code enforcement officer. Existing structures which are to remain will be delineated;
(c) Names of proposed streets, width of rights-of-way, and typical cross section reservation, and depth of construction materials;
(d) Locations, widths and purposes of other rights-of-way or easements to be recorded;
(e) All appropriate street curve information, including point of curvature, point of tangency, tangent distance, radii and interior angle, in standard engineering format;
(f) Location of those utilities existing on or adjacent to the tract to be subdivided, including size and elevation of buried or underground utilities (may be shown on separate plan);
(g) Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
(h) Names of adjacent property owners;
(i) Designation of flood hazard areas, as defined by the National Flood Insurance Program and shown on the town flood hazard boundary map, as well as any other areas in the subdivision subject to inundation by storm water or storm sewer overflow;
(j) Existing historic sites and structures which either appear on the National Register or are nominated to the National Register by the state historic preservation officer;
(k) Proposed private and public utility system including water, telephone, and any other services which shall supply the area (may be shown on a separate plan);
(l) Storm drain plans and profiles showing size, kind and slope of pipe, proposed manhole rim and invert elevations and catch basin locations and drains (may be shown on separate plan);
(m) Lighting plan showing the location, design, height and spacing from each other of the support poles, in accordance with standards and specifications established by the code enforcement officer (may be shown on separate plan);
(n) Tree plan showing groups of existing, sizable trees which the subdivider intends to preserve (may be shown on separate plan);
(o) A detailed plan of the entire subdivision and the immediate vicinity showing all existing and proposed drainage both on and off-site including drainage swales, ditches, etc., with directional flow arrows and approximate slope grades, and showing proposed finished "spot elevations" around the perimeter of the subdivision. Proposed drainage shall be shown as it may affect or restrict development on individual lots and with reference to improvements for which a performance guarantee is required under this article. Where deemed feasible by the code enforcement officer, proposed finished contours at intervals of two (2) feet shall be provided on the drainage plan (may be shown on separate plat);
(p) Location and designation of any zoning district boundaries affecting the subdivision;
(q) Proposed parks and school sites, or other public open space that the developer proposes to convey to the town;
(r) Names and addresses of registered professional engineer, subdivider and owner;
(s) At the option of the subdivider, any other information that may be necessary for the full and proper consideration of the subdivision shall be submitted in writing;
(t) Streets and right-of-way monuments and property line markers;
(u) Vicinity sketch, as defined in Article 2 and Article 3, Subsection C (may be shown on separate plan);
(v) Total site data, including total area of the subdivision, total area in streets, total area in recreation or open space and number of house lots;
(w) When private sewage systems are used, the results and supporting data of a soil test of each lot in the subdivision conducted by a soil evaluator licensed in the state; and when shared systems are proposed a plan in accordance with state law shall be provided;
(x) Additional submission items if required by the planning board (may be shown on separate sheets):

1. When the adequacy of the subdivision's load bearing capacity is in question, the results and supporting data of test borings conducted by a professional engineer registered in the state;
2. When conditions warrant, a program which shall be implemented by the subdivider to control dust, erosion and sedimentation and/or vehicular traffic during construction;
3. Evidence of the applicant's financial capability to carry out all phases of the proposed development;
4. Evidence of state and federal approvals, licenses or permits required by law, or the status of applications therefore;
5. Price range of houses that will be built in the subdivision;
6. Traffic impact analysis;
7. High intensity soil survey, if required by the planning board;
8. Evidence of technical capacity to undertake the development;
9. Types and estimated quantities of solid waste to be generated by the development;
10. Construction plan outlining the anticipated sequence of construction of the major features of the project including without limitation roads, retention basins, sewer lines, seeding and other erosion and sedimentation control measures, and pollution abatement measures and also setting forth the approximate dates for commencement and completion of the project;
11. A narrative and a plan showing all proposed buffer strips, their dimensions, and maintenance plans and responsibilities; and
12. A description of any wetlands, wildlife and fisheries habitats, archaeological sites or unusual natural areas located on or near the project site and a description of the methods that will be used to protect such areas.

(2) Recording plat. The recording plat shall be an original ink drawing on linen or mylar, or as necessary to be acceptable to the registry of deeds, and shall be tied to an
accepted street or to a proposed street under construction and bonded to insure construction. This plat also shall show the following:

a. Title, date, graphic scale, north arrow, name, signature and registration number or seal of a registered land surveyor licensed in the state, name and address of developer and owner;
b. Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
c. All appropriate street curve information, including point of tangency, tangent distance, radii and interior angles, in standard engineering form;
d. Street names, width of street rights-of-way and typical cross section showing only surface dimensions of roadway pavement;
e. Street and right-of-way monuments and property markers. Iron pipes shall be designated by a small circle at the point of installation;
f. Locations, dimensions and purposes of any easement or right-of-way;
g. Purpose for which sites, other than residential lots, are dedicated or reserved; it being understood that any reservations of areas shall be subject to the proper zoning thereof;
h. Reference to recorded subdivision plats of adjoining platted land by book and page number;
i. Space for the signatures of the planning board and date of approval;
j. Where required by 30-A M.R.S.A. Section 4406, the fact that initial approval or subsequent amendment of a subdivision is based in part upon the granting of a variance from any of the applicable subdivision approval standards.

(3) Alterations to an approved plat. The planning board may approve alterations to an approved recording plat when all of the following conditions are met; otherwise, a new subdivision plat must be submitted to the planning board:

a. The rearrangement of lot lines does not increase the number of lots within a block or other subdivision unit or area;
b. The alteration will not affect any street, utility easement or drainage easement;
c. The alteration meets all of the minimum requirements of this article, article III of this chapter on zoning and other applicable state and local codes;
d. The alteration is approved by the code enforcement officer and the fire department. Such approved alterations shall be properly recorded in the registry within thirty (30) days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S.A. Section 4406.

(4) Vacation of plats. Any such plat recorded, or any portion thereof, may be vacated with the consent of the selectmen as follows:

a. At any time before the sale of any lot therein, by written instrument, signed by the selectmen and the owners of such subdivision, declaring the same to be vacated and describing therein the part or portion to be so vacated.
b. At any time after the sale of any lot therein and by written instrument, signed by
the selectmen and all owners of record of lots shown on the plat, declaring the same to
be vacated and describing therein the part or portion to be so vacated.

Any instrument so executed vacating all or a portion of any plat shall be duly filed
and recorded in the county registry of deeds. The execution and recording of the
instrument described in subsection (4)b. above shall vest fee simple title to the cen-
terline of the street, or easement for public passage so vacated in the owners of
abutting properties. Title to property located within the vacated streets or easements for
public passage shall pass to abutting property owners free and clear of any rights of the
public or other owners of lots shown in the plan, but subject to the rights of the owners of
any public utility installations which have been previously erected therein.

G. General requirements.

(1) Review criteria. When reviewing any subdivision for approval, the planning board
shall consider, among others, the following review criteria and before granting approval
shall determine that the proposed subdivision:

a. Will not result in undue water or air pollution. In making this determination it shall
at least consider the elevation of land above sea level and its relation to the flood
plains, the nature of soils and subsoils and their ability to adequately support waste
disposal; the slope of the land and its effect on effluents; the availability of streams for
disposal of effluents; the conformity to the applicable state and local health and water
resources regulations;

b. Has sufficient water available for the reasonably foreseeable needs of the subdivision;

c. Will not cause unreasonable burden on an existing water supply;

d. 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;

e. Will not cause unreasonable public road congestion or unsafe conditions
with respect to use of the public roads existing or proposed;

f. Will provide for adequate sanitary waste and storm water disposal and will not cause
an unreasonable burden on municipal services if they are utilized;

g. Will not cause an unreasonable burden on the ability of the town to dispose of solid
waste if municipal services are to be utilized;

h. Will not have an undue adverse effect on the scenic or natural beauty of the area,
aesthetics, historic sites, significant wildlife habitat identified by the department of
inland fisheries and wildlife or by the town, or rare and irreplaceable natural areas or
any public rights for physical or visual access to the shoreline;
i. Is in conformance with the comprehensive plan or its successor;

j. The subdivider has adequate financial and technical capacity to meet the standards of this section;

k. Whenever situated, in whole or in part, within the watershed of any pond or within two hundred fifty (250) feet of any wetland as defined in Title 38, chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;

l. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;

m. Is or is not in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation;

n. All potential wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of those wetlands. Any mapping of wetlands may be done with the help of the local soil and water Conservation district; and

o. Any stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "stream or brook" has the same meaning as in Title 38 M.R.S.A. Section 480-B, subsection 9.

(2) Burden of proof. In all instances the burden of proof shall rest upon the person proposing the subdivision.

(3) Conformity with Code. Any proposed subdivision shall be in conformity with all relevant provisions of this Code.

(4) Construction records and inspection.

a. The code enforcement officer shall have the right to enter and inspect the construction site during all phases of the project to ensure compliance with this article.

b. After approval of the subdivision plat and prior to the construction of any of the subdivision's public improvements, the subdivider shall supply the code enforcement officer with a
complete set of engineering drawings on mylar or linen showing all streets and surface water drains and all appurtenant work within the subdivision.

c. The subdivider shall provide the code enforcement officer with a complete and accurate list of any changes from the engineering drawings as approved by the planning board prior to the release of the performance bond.

H. Technical and design standards.

(1) Adoption and amendment of standards: The code enforcement officer may promulgate technical and design standards for subdivisions and site plans. Such technical and design standards or any amendments thereto shall become effective only upon approval of the planning board following a public hearing before the planning board. In approving the technical and design standards, the planning board may make changes with respect to format and text but, to the extent that standards are based upon sound engineering practice, shall not direct changes in the standards themselves. Such standards shall be additional to and consistent with the provisions of this article and shall be necessary and reasonable and shall be in accord with sound engineering practice. The code enforcement officer shall maintain for public inspection current copies of the effective standards.

(2) Street plan:

a. All streets shall be platted along contour elevations which result in minimum grades and greatest visibility whenever practicable, with consideration given for anticipated use of the land.

b. The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.

c. Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.

d. Street right-of-way widths shall not be less than fifty (50) feet. Proposed subdivisions along existing, or dedicated, or platted streets where rights-of-way are inadequate shall provide additional land to meet the minimum standards.

e. Streets shall not occupy more land than needed to provide access nor create unnecessary fragmentation of the subdivision into small blocks. Streets will be designed to discourage outside traffic from traversing the development.

f. All dead-end streets shall provide for a cul-de-sac or, in the case of a dead-end street which will be extended, a temporary turn-around at the end of the street, subject to the approval of the code enforcement officer.
(3) Street design:

a. Profiles of each street or way in the subdivision shall be shown on the subdivision plat. They shall be drawn to a longitudinal scale of forty (40) feet to one (1) inch and a vertical scale of four (4) feet to one (1) inch. Such profiles shall include separate profiles of each side line and center line of the street or way. Any buildings abutting on the street shall be shown in standard engineering format as requested by the code enforcement officer.

b. Street grades in all proposed subdivisions shall be subject to the approval of the code enforcement officer.

c. The code enforcement officer shall establish the sequence in which work is to be accomplished. Where it is determined by the code enforcement officer that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section, the code enforcement officer may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the code enforcement officer. Violation of the stop work order shall be considered an offense.

(4) Street and subdivision names:

a. Street names for all subdivisions shall appear on the subdivision plat and be subject to approval by the planning board.

b. Subdivision names for plats shall be subject to approval by the planning board and not duplicate the name of any plat already recorded.

(5) Storm drains:

a. The design of all storm drains shall be subject to approval by the code enforcement officer.

b. All subdivisions shall be provided with adequate storm drain systems within the subdivision.

c. Any natural or manmade areas, systems or facilities designated for stormwater control purposes and intended for town maintenance shall, except for detention or retention ponds or basins and regularly free-flowing watercourses, be structurally enclosed in accordance with the standards of the code enforcement officer, and shall be dedicated with sufficient land for maintenance purposes. Warranty deeds to such areas shall be submitted for acceptance by the selectmen at the same time as the acceptance of streets. All such areas as are not intended for town maintenance shall be permanently protected and maintained by private agreement, deed covenant or restriction, as appropriate, in form approved by the town counsel.

d. The approval of the plumbing inspector is required for all subdivisions involving the use of septic tanks and drainage fields for sewage disposal.
e. The subdivider shall be responsible for the construction of all storm drains including manholes, catch basins and any other appurtenances as may be deemed necessary by the code enforcement officer. All work shall be in accordance with public works specifications state standards.

f. The code enforcement officer shall establish the sequence in which work is to be accomplished. Where it is determined by the code enforcement officer that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section, the code enforcement officer may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the code enforcement officer. Violation of the stop work order shall be considered an offense.

(6) Lots:

a. Lot sizes shall conform to the zoning ordinance in Articles 3 (Zoning District Standards), 4 (Shoreland Zoning District Standards), 5 (General Provisions), and 7 (Townwide Performance Standards) of this chapter and the state health code.

b. Where easements for public utilities or storm sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.

c. Lots which are reserved or laid out for business purposes shall have sufficient width and depth to accommodate the off-street parking and loading facilities required for the type of use and development contemplated, as established in article III of this chapter.

d. Where feasible, side lot lines shall be at right angles to street lines (or radial to curving street lines).

(7) Public open space:

a. In all subdivisions open space may be provided for public open space, recreational and other public areas. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under Article 11, subsection G.1., general requirements, the planning board may require provision of land for public open space or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this section, subject to the approval of the planning board.

b. If a tract or parcel is intended for public ownership and is so designated on the subdivision plat, the acceptance of such land shall be first recommended by the various departments and the planning board and sent to the town meeting for final determination.

c. If a tract or parcel is designed or intended to be owned and used in common for recreational or other public or semipublic purposes and such intent is so designated
on the subdivision plat, appropriate documents in form approved by the town
counsel shall be submitted to the planning board. Such documents shall clearly:

i. Set forth the nature of the permanent organization under which common own-
ership is to be established, including its purpose; how it shall be governed and
administered; the provisions made for permanent care and maintenance of the
common property for its share of the cost of administering and maintaining such
common property;

ii. Set forth the extent of common interest held by the owner of each individual
parcel in the tract held in common with others.

(8) Access to shoreline:

a. In all subdivisions having shore frontage, existing legal rights of public access to the
shoreline shall be preserved. The proposed street layout and circulation plan shall be suitably
integrated with such existing public access in a manner that reasonably promotes the public use of
such access. The proposed street layout and circulation plan shall also be designed to preserve any
legal rights to any significant water views and scenic vistas from such rights-of-way.

b. In all subdivisions having any lots within the shoreland zone, legal rights of private
access to waters shall, to the extent reasonably feasible, be established for the benefit
of all lots within the subdivision not otherwise having such access.

I. Required improvements. Prior to the release of the approved recording plat the subdivider
shall file a guarantee as hereinafter provided, and prior to release of such guarantee the subdivider
shall have completed all improvements as follows:

(1) All streets shall be graded in conformity with the requirements set out in Article 11,
section H.
(2) On all streets and side streets a suitable hard surfaced permanent pavement may be
required to be installed meeting state requirements.
(3) Common piping and storm drains shall be constructed prior to the installation of paving
with all mains being extended from all lots having sufficient stub outs to avoid subsequent
breaking of pavement.
(4) Adequate storm drains shall be constructed subject to the provisions of Article 11,
section F. and in accordance with Maine's Best Management Practices.
(5) Permanent markers will be set as prescribed by the code enforcement officer.
(6) Street lighting shall be installed in accordance with the standards of the code
enforcement officer.
(7) Erosion control measures shall be taken both during and after construction in accordance
with the standards of Maine's Best Management Practices.
J. Performance and defect guarantees; amount and release.

(1) The performance guarantee shall be a surety bond, letter of credit or escrow account with a responsible financial institution. It shall be in the name of the town and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency. The performance guarantee may be provided in whole or in part by means of a surety bond given by a contractor to the developer, provided that the town is included in the bond as an additional named insured and that the bond states that the amount provided for in the bond cannot be reduced without the prior written approval of the town. Such a bond shall be reviewed by the finance director as to financial sufficiency and by the corporation counsel as to proper form and legal sufficiency.

(2) Performance guarantees shall be required to ensure the fulfillment of all improvements as required by Article 11, section I and the subdivider shall give to the town, at the time of acceptance of the street, a warranty deed to the property within each street within the subdivision, as well as delivery to the town, at the time of acceptance of streets, of the warranty deeds to all other improvements intended for town maintenance. Such guarantee shall specify the completion of the improvements required in the subdivision and delivery to the town of such deed or deeds within twenty-four (24) months from the date of such guarantee. Furthermore, the performance guarantee shall be released only upon the tendering of a defect guarantee as required in subsections (5) and (6).

(3) The guarantee shall be equal in value to one hundred (100) percent of the estimated cost of the improvements as determined by the code enforcement officer. The guarantor shall not be released from the guarantee except by a release in writing from the selectmen and the planning board.

(4) Upon the satisfactory completion of the subdivision's prescribed improvements, the subdivider shall file a defect guarantee prior to the town's acceptance of any and all streets within the subdivision. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the roadways, storm drainage systems (including manholes, catch basins and catch basin drains), street lighting, other appropriate landscaping and all other public improvements which may become defective within one (1) year period, all as determined by the code enforcement officer.

(5) The defect guarantee shall be a surety bond, letter of credit or escrow account with a responsible financial institution, equal in value to ten (10) percent of the estimated cost of public improvements. It shall be in the name of the town and shall be approved by the selectmen as to financial sufficiency and the town counsel as to proper form and legal sufficiency. A guarantee which contains appropriate terms and conditions to cover both the performance and defect guarantee provisions as specified in subsections (1) - (4) above is an acceptable form of guarantee.

(6) A performance bond shall also be required to ensure the completion of all improvements as required by Article 11, section I.5., as well as all improvements for the circulation, recreation, landscaping, light, air, drainage and service needs of a planned unit development which are not subject to Article 11, section J.2. For purposes of this subsection, Article 11, sections J.3.
and J.4. shall also apply. The planning board may waive all or any portion of this requirement if it determines that the developer has a proven record of satisfactory performance and sufficient financial capability.

(7) The subdivider shall pay a subdivision inspection fee, which fee shall consist of the actual costs, including administrative costs, of inspection by the code enforcement officer of all improvements required by Article 11, section I and this section. Prior to the release of the approved recording plat and at the same time that the subdivider posts a performance guarantee as provided in this section, the subdivider shall pay to the town a deposit toward this subdivision inspection fee, which deposit shall be equal to two percent (2%) of the estimated cost of the improvements. Upon issuance of a release in writing from the selectmen and the planning board as provided in this section and as a condition precedent to release of the performance guarantee as provided in this section, the subdivider either:

a. Shall pay to the town that amount by which the actual costs of inspection of the required improvements exceed the deposit; or

b. Shall receive from the town that amount by which the deposit exceeds the actual costs of inspection of the required improvements.

**K. Extension of the guarantee period.**

When the subdivider constructs improvements for which a performance guarantee is required and the public code enforcement officer has reasonable doubt concerning the stability or proper construction of such improvements, the subdivider shall be required to do such further work on the improvements as the code enforcement officer shall order before the improvements will be accepted by the town. If the subdivider's current performance guarantee shall expire before the extent or necessity for such further work can be determined, the subdivider shall be required to extend his or her guarantee covering such improvements, or secure a new guarantee, for such further period and in such amount as the code enforcement officer shall deem necessary.

**L. Sale of partially completed subdivisions.**

The purchasing party or other succeeding owner of a subdivision for which a recording plat has received prior approval shall assume full responsibility for completion of the subdivision's improvements until acceptance of such improvements by the town. The purchaser or other succeeding owner of an unaccepted subdivision shall be required to comply with all the provisions of this article as if it were the original subdivider, and shall become responsible for completing such improvements in the same manner as the original subdivider.

**M. Enforcement, conveyance, markers and recording.**

(1) No person may sell, lease, develop or build upon or convey for consideration, offer or agree to sell, lease, develop or build upon or convey for consideration any land in a subdivision unless the subdivision has been approved by the planning board, and unless a recording plat
showing permanent marker locations at all lot corners has been recorded in the county registry of deeds.

(2) The term permanent marker is limited to the following: A granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the code enforcement officer. No subdivision plan shall be recorded by the registry of deeds which has not been approved as required by this article. Approval for the purpose of recording shall appear in writing on the recording plat. No public utility or any utility company of any kind shall install services to any lot in a subdivision which has not received planning board approval.

(3) Any person who sells, leases, develops or builds upon or conveys for consideration any land in a subdivision which has not been approved as required by this article shall be punished by a fine of not more than five thousand dollars ($5,000.00) for each such occurrence. The town may institute proceedings to enjoin any violation of this section.

N. Appeals. An appeal from any final decision of the planning board regarding subdivision approval may be taken by the applicant or his authorized agent to superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

O. Modifications.

(1) With respect to Article 11, sections H and I, the planning board if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the comprehensive plan and the regulations of this article.

(2) The standards and requirements of this article may be modified by the planning board in the case of a plan and program for a planned unit development which in the judgment of the planning board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the land development plan.

(3) If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the code enforcement officer that unforeseen conditions make it necessary or preferable to modify the design of the required improvements, the code enforcement officer may authorize modifications provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the planning board.

P. Conditions. In granting variances and modifications, the planning board and selectmen may require such conditions as will, in their judgment, secure substantially the objectives of the standards or requirement so varied or modified.
Q. Exemptions.

(1) This article does not apply to subdivisions approved prior to June 6, 1979, nor to subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally recorded in the registry of deeds prior to June 6, 1979.

(2) A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this article, or by transfer of any interest in land to the owner abutting thereon shall not be considered to create a lot or lots for purposes of this article.
ARTICLE 12: FLOODPLAIN STANDARDS

STATEMENT OF PURPOSE AND INTENT

Certain areas of the Town of Long Island, 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 Long Island, 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 Long Island, 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 MRSA Title 30A, Sections 3001-3007, 4352 and 4401-4407.

SECTION I-ESTABLISHMENT

The Town of Long Island, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Long Island 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 Long Island, Maine.


SECTION II-PERMIT REQUIRED

Before any construction or other development (as defined in Section XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. 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 Long Island, Maine.
SECTION III-APPLICATION FOR PERMIT

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

A. The name and address of the applicant;
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;
E. A statement at to the type of sewage system proposed;
F. Specification of dimensions of the proposed structure;
G. The elevation in relation to the National Geodetic Vertical Datum (VGVD) or to a locally established datum in Zone A only, of the:
   1. base flood at the proposed site of all new or substantially improved structures, which is determined:
      a. in Zones A1-30, AE, AO, AH, VI-30, and VE from data contained in the “Flood Insurance Study -Town of Long Island, Maine,” as described in Section 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;
H. A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
I. A written certification by a registered land surveyor that the elevations shown on the application are accurate;
J. Certification by a registered professional engineer or architect that floodproofing methods for any:
   1. non-residential structures will meet the floodproofing criteria of Section III.G.4; Section VI.G; and other applicable standards in Section VI; and,
   2. construction in coastal high hazard areas, Zones VI-30 and VE, will meet the floodproofing criteria of Section VI.K; and other applicable standards in Section VI.
K. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and
L. A statement of construction plans describing in detail how each applicable development standard in Section VI will be met.
SECTION 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 Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert’s fee will 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 Code Enforcement Officer may appeal that decision to the Board of Appeals.

SECTION 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 Section 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 Long Island, Maine,” as described in Section I. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Section III.G.1.b.; Section VI.I; and Section VIII.D, in order to administer Section VI of this Ordinance;

C. Make interpretations of the location of boundaries of flood hazard areas shown on the maps described in Section 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 Office of Community Development prior to any alteration or relocation of a water course and submit copies of such notification to the Federal Emergency Management Agency;

F. Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build as structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a registered Maine surveyor for compliance with the elevation requirements of Section VI, paragraphs F, G, H, and K. Following review of the application, which review 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; and,
G. Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section IX of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Section VII of this Ordinance.

SECTION 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 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 during 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. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
   a. at least one foot higher than the depth specified in feet on the community’s Flood Insurance Rate Map; or,
   b. at least three feet if no depth number is specified.
4. 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 Section III.G.1.b.; Section V.B; or Section VIII.D.
5. Zones V1-30 and VE shall meet the requirements of Section VI.K.

G. New construction or substantial improvement of any non-residential structure located within:
1. Zones A1-30, AE, and AH 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 level so that below that elevation the structure is watertight with walls substantially impermeable to 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 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 Section III.J and shall include a record of the elevation above mean sea level of the lowest floor including basement.

2. Zones AO and Al-f shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

a. at least one foot higher than the depth specified in feet on the community’s Flood Insurance Rate Map; or,

b. at least three feet if no depth number is specified; or,

c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Section VI, paragraph G.1.

4. 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 Section III.G.1.b.; Section V.B; or Section VIII.D.

5. Zones VI-3O and VE shall meet the requirements of Section VI.K.

H. New or substantially improved manufactured homes located within:

1. Zones A1-30, AE, or AH 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 or lateral movement. Methods of anchoring may include, but are not limited to:

   (1) over-the-top ties anchored to the round 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

   (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 Section VI, paragraph H.1.b (1) (2) shall be capable of carrying a force of 4800 pounds.

2. Zones A0 and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone A0 shall have the lowest floor (including basement) elevated above the highest adjacent grade:
   a. at least one foot higher than the depth specified in feet on the community’s Flood Insurance Rate Map, or,
   b. at least three feet if no depth number is specified; and,
   c. meet the requirements of Section VI.H.1. (a) (b).

4. 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 Section III.G.1.b.; Section V.6; or Section VIII.D.
5. Zones Vl-30 and VE shall meet the requirements of Section VI.K.

I. Floodways

1. In Zones Al-30 and 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 Boundary and Floodway Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones Al-30 and 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 provide 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 Section 2-7 entitled "Hydraulic Analyses," Flood Insurance Study — Guidelines and Specifications for Study Contractors, FEMA 37/September, 1985, as amended).

3. In Zone A riverine areas, in which 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 Section VI, paragraph I.2.

J. New construction or substantial improvement of any structure in Zones Al-30, AE, AO AH, and A that meets the development standards of Section VI, including the elevation requirements of Section VI, paragraphs F, G, or H and is elevated on posts, columns,
piers, piles, "stilts" or crawlspaces less than three feet in height may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:

1. Walls, with the exception of crawlspaces less than three feet in height, shall not be part of the structural support of the building; and,
2. Enclosed areas are not "basements" as defined in Section XIII; and,
3. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. 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,
4. The enclosed area shall not be used for human habitation; and,
5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of sections and equipment used for maintenance of the building.

K. Coastal Floodplains

1. All new construction located within Zones V1-3O or VE shall be located landward of the reach of the highest annual spring tide.
2. New construction or substantial improvement of any structure located within Zones VI-3O or VE shall:
   a. be prohibited unless the following criteria are met:
      (1) the area is zoned for general development or its equivalent, as defined in the Mandatory Shoreland Zoning guidelines adopted pursuant to 38 M.R.S.A. §438-A; or,
      (2) the area is designated as densely developed as defined in 38 M.R.S.A. §436-A, subsection 3.
   b. be elevated on posts or columns such that:
      (1) the bottom of the lowest structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood level;
      (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
      (3) water loading values used shall be those associated with the base
flood. Wind loading values used shall be those required by applicable state and local building standards.

c. have the space below the lowest floor:

(1) free of obstructions; or,
(2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
(3) constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

3. A registered professional engineer or architect shall:

   a. develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55/February, 1986) and,
   b. certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Section VI.K.2.

4. The use of fill for structural support in Zones VI-30 and VE is prohibited.

5. Human alteration of sand dunes within Zones VI-30 and VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

6. The enclosed areas may be used solely for parking vehicles, building access, and storage.

SECTION 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. The applicant shall submit an Elevation Certificate completed by:

   1. a registered Maine surveyor for compliance with Section VI, paragraphs F, G, H, or K; and,
   2. a registered professional engineer or architect, in the case of:

      (a) floodproofed non-residential structures, for compliance with Section VI.G; and,
      (b) construction of structures in the coastal floodplains for compliance with Section VI, paragraph K.3.

B. The application for a Certificate of Compliance shall be submitted by the applicant in writing along with a completed Elevation Certificate to the Code Enforcement Officer.

C. The Code Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with provisions of this Ordinance.
SECTION 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 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. 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 Section 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.

SECTION IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Long Island may, upon written application of an aggrieved party, hear and decide appeals from 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 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 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 existence of the variance will not cause a 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 Section IX and Section VI-I are met; and,
2. the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

E. Variances may be issued by a community for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in Section IX, paragraphs A through D.

F. Any applicant who meets the criteria of Section 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 Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

SECTION X- ENFORCEMENT AND PENALTIES

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

B. The penalties contained in 30A 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 1966, as amended.

SECTION 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 or provision of this Ordinance.

SECTION XII-CONFLICT WITH OTHER STANDARDS

These standards 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.

Any lot or portion of a lot located in a shoreland zone as identified on the town shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

SECTION 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 a Shallow Flooding- means a designated AO and All zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clean define where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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 Section 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.
**Breakaway Wall** - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**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

(i) built, in the case of a building in Zones Al-30, AE, A, A99, 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,

(ii) 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 Al-30, AE, A, A99, AO, or AH, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.

**Elevation Certificate** - An official form (FEMA Form 81-31, 05/90, as amended) that

(i) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

(ii) 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 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 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, 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 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 Section 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.

**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.

**Regulatory Floodway**—

(i) 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
(ii) in riverine areas 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 improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**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.

**SECTION XIV - ABROGATION**

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

60.3 (e)
ARTICLE 13: ZONING BOARD OF APPEALS

13.1 Jurisdiction and authority. The board of appeals shall have the following jurisdiction and authority:

A. Subject to the provisions of section 13.4, to hear and decide appeals from, and review orders, decisions, determinations or interpretations made by the building authority;
B. Subject to the provisions of section 13.5, to hear and grant or deny applications for variances from the terms of this article;
C. Subject to the provisions of section 13.6, to hear and grant or deny applications for conditional uses, as specified in this article;
D. To initiate changes and amendments to this Article 13.

13.2 Administrative Procedures.

A. Creation; composition. There shall be a board of appeals of five (5) members and two alternates who will vote in the absence of one (1) or two (2) regular members. Members and/or alternates of the board shall be residents and/or property owners of the town and shall not be officers or employees of the town.

B. Appointment; terms. The members and/or alternates of the board of appeals shall be appointed by the selectmen for terms of three (3) years. Terms shall be staggered so that the terms of no more than three (3) members and/or alternates shall expire in any calendar year. Such members and/or alternates shall serve until their successors are duly elected and qualified provided, however, that such service shall not extend to over (120) hundred twenty (120) days after expiration of their term.

C. Compensation. Members and/or alternates of the board of appeals shall serve without compensation.

D. Vacancies. Permanent vacancies on the board of appeals shall be filled by the selectmen in the same manner as other appointments under this article, for the unexpired term of a former member and/or alternate whose place has become vacant.

E. Removal of members and/or alternates. Any member and/or alternate of the board of appeals may be removed for cause by the selectmen at any time; provided, however, that before any such removal, such member and/or alternate shall be given an opportunity to be heard in his own defense at a public hearing.

F. Chair. The members and/or alternates of the board of appeals shall annually elect one (1) of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the chair, the secretary shall act as chair and shall have all the powers of the chair.
G. Secretary. The members and/or alternates of the board of appeals shall annually elect one (1) of their number as secretary. The secretary shall act as chair in the absence of the chair and shall fulfill the duties provided by statute and this article and have such other duties as may from time to time be provided by the rules of the board.

H. Records and decisions.

(a) The transcript of testimony, if any, together with the minutes of the secretary and all exhibits, papers, applications and requests filed in any proceeding before the board of appeals and the decision of the board shall constitute the record.

(b) Every decision of the board of appeals shall include findings of the fact, shall refer to the evidence in the record and the exhibits, plans or specifications upon which such decision is based, shall specify the reason or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief.

(c) The secretary shall cause notice of any decision of the board to be delivered or mailed to the applicant, and planning board within five (5) days of such decision.

I. Conflicts. No member and/or alternate of the board of appeals shall participate in the hearing or disposition of any matter in which s/he has an interest. Any question of whether a member and/or alternate has a conflict of interest sufficient to disqualify that member and/or alternate shall be decided by a majority vote of the members and/or alternates, except the member and/or alternate who is being challenged; where such a vote results in a tie, the challenged member and/or alternate shall be deemed disqualified.

J. Appeals. An appeal from any final decision of the board of appeals may be taken by any aggrieved party to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

K. Successive applications. Whenever any application, appeal or other request filed pursuant to this article has been finally denied on its merits, a second application, appeal or other request seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought within one (1) year of such denial unless, in the opinion of the officer or board before which it is brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.

L. Violations. In addition to any other remedies available, the board of appeals after notice and hearing may revoke any variance or other relief granted under this article when the provisions of this article or the conditions under which the relief was granted have not been complied with.

13.3 Conduct of Hearings.

A. Meetings, hearing, and procedures.
(1) Regular meetings of the board of appeals shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any two (2) members and/or alternates of the board or at the request of the selectmen. All meetings and hearings of the board shall be open to the public.

(2) The board of appeals shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the secretary and with the town clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.

B. Quorum and necessary vote. No business shall be transacted by the board of appeals without a quorum, consisting of three (3) members and/or alternates, being present. Except as expressly provided herein, the concurring vote of at least three (3) members and/or alternates of the board shall be necessary to authorize any action, to grant any request or application or to sustain any appeal.

C. Public hearings.

(1) Setting hearing. For all matters properly brought before the board of appeals, the board shall select a reasonable time (not to exceed 60 days from receipt of a completed application) and place for a public hearing following the submission of the subject application.

(2) Notice. The secretary shall give notice of such public hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, a description of the contents of the matter to be heard and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven (7) days in advance of the hearing date by regular United States mail. Notices shall be given to each of the following as specified:

(a) In all cases, to all residents of the town by publication in a newspaper of general circulation in the town at least once, not more than thirty (30) nor less than five (5) days before the date of the hearing, and by mail to each of the following persons, each of whom shall be made a party of record in each case: The applicant, the selectmen and the planning board;
(b) In the case of hearings related to a use variance, nonconforming use, or a conditional use involving a particular parcel or tract of land, by mail to the owners of all the property within five hundred (500) feet of such parcel or tract;
(c) In the case of hearings related to variances or appeals other than use variances, by mail to the owners of property directly abutting, and directly across a street from the subject property;
(d) For purpose of this section, the owners of property shall be considered to be the parties listed by the assessor's records as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.
(3) Conduct of hearings:

a. Rights of all persons. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence, provided, however, that the board shall exclude irrelevant, immaterial and unduly repetitious evidence.

b. Rights of parties. The applicant and any interested party shall in addition have the following rights:

i. To present witnesses on their own behalf and offer rebuttal evidence;

ii. To cross-examine all witnesses testifying in opposition to their position through the chair; and

iii. To examine and introduce any documents produced at the hearing.

c. Board rules to govern. All other matters pertaining to the conduct of hearings shall be governed by the provisions of the relevant state statutes, this article, and the rules promulgated by the board of appeals.

13.4 Appeals.

A. Authority. The board of appeals shall hear and decide appeals from and review orders, decisions, determinations or interpretations or the failure to act of the code enforcement officer.

B. Procedure:

(1) Notice of appeal. An appeal may be taken to the board of appeals by any person affected by a decision of the code enforcement officer. Such appeal shall be taken within thirty (30) days of the action complained of by filing with the code enforcement officer a notice of appeal specifying the grounds thereof. A payment of a nonrefundable filing fee, as established from time to time by the selectmen to cover administrative costs and costs of hearing, shall accompany notice of appeal. The code enforcement officer shall forthwith transmit to the board of appeals all of the papers constituting the record upon which the action appealed from was taken.

(2) Public hearing. A public hearing shall be set at a reasonable place and time (not to exceed 60 days from receipt of a completed application for appeal), advertised and conducted by the board of appeals in accordance with this Article 13 (Zoning Board of Appeals).

(3) Action by the board of appeals. Within thirty (30) days following the close of the public hearing, the board of appeals shall render a decision on the appeal in the manner and form specified in this Article 13 (Zoning Board of Appeals). The failure of the board to act within thirty (30) days shall be deemed an approval of the appeal unless mutually extended in writing by the appellant and the board. Within five (5) days of such decision or failure to act notice thereof shall be mailed by the secretary to each party.
(4) Right to grant variance in deciding appeals. In any case where the notice is accompanied by an application for variance in accordance with section 13.5.B.1, the board of appeals shall have the authority to grant, as part of the relief, a variance, but only in strict compliance with each provision of section 13.5 hereof.

(5) Conditions and limitations on rights granted by appeal. Any right granted by the board of appeals on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

13.5 Variances.

A. Authority. Except as otherwise expressly provided in Section 13.5.D, the board of appeals may authorize variances from the provisions of this article as meet the requirements of this division including but not limited to use variance, dwelling unit conversion, space and bulk such as lot size, density and side yard, parking, loading and signs.

B. Procedure:

(1) Application. Application for a variance shall be submitted to the code enforcement officer. A payment of a nonrefundable application fee, as established from time to time by the selectmen to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the code enforcement officer and contain at least the following information and documentation:

   a. The name and address of the applicant and his or her interest in the subject property and a copy of the deed;
   b. The name and address of the owner, if different from the applicant;
   c. The address or location of the subject property;
   d. The present use and zoning classification of the subject property;
   e. Where the site plan approval is required by article 10 (Site Plan Review) of this chapter, a preliminary or final site plan as defined by article 10 (Site Plan Review) of this chapter;
   f. The relief sought from the board of appeals.

(2) Public hearing. A public hearing shall be set at a reasonable place and time (not to exceed 60 days from receipt of a completed application for a variance), advertised and conducted by the board of appeals in accordance with Article 13 (Zoning Board of Appeals) of this chapter.

(3) Action by board of appeals. Within thirty (30) days following the close of the public hearing, the board of appeals shall render its decision granting or denying the variance, in the manner and form specified by article 13 (Zoning Board of Appeals). The failure of the board to act within thirty (30) days shall be deemed an approval of the variance unless mutually extended in writing by the applicant and the board. Within seven (7) days of such decision or the expiration of such period, the secretary shall mail notice of such decision or failure to act to the applicant.
C. Variances Permitted.

1. Use variances. Except as provided in Section 13.5.C.2 through 4 herein, the board of appeals may grant a variance only when strict application of the ordinance to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

   a. That the land in question cannot yield a reasonable return unless a variance is granted;
   b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
   c. That the granting of a variance will not alter the essential character of the locality; and
   d. That the hardship is not the result of action taken by the applicant or a prior owner.

2. Disability Variances

   Notwithstanding the provisions of Sections 13.5.C.1, 13.5.C.3, 13.5.C.4, and 13.5.5.D of this section, the board may grant a variance to an owner of a residential dwelling for the limited purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety and effectiveness of the structure. For the purpose of this subsection, with a disability and disability shall have the same meaning as person with a physical or mental disability as defined in subsections 7-A and 7-B of section 4553 of Title 5 of the Maine Revised Statutes Annotated. (Amended May 8, 2010)

3. Limited Setback variance for single-family dwellings

   The board of appeals may grant an applicant a setback variance for the location or relocation of a single-family dwelling if the owner demonstrates that strict application of the zoning ordinance to the owner and the owner's property would cause undue hardship. The term undue hardship as used in this subsection means:

   a. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
   b. The granting of a variance will not alter the essential character of the locality; and
   c. The hardship is not the result of action taken by the applicant or a prior owner.
   d. The granting of the variance will not substantially reduce or impair the use of
abutting property; and

e. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A variance under this subsection is strictly limited to permitting a variance from a setback requirement for a single-family dwelling that is the primary year-round residence of the applicant. Except as follows, a variance under this subsection may not exceed 20% of any setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. A variance under this subsection may exceed 20% of a set-back requirement, except for minimums setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B of the Maine Revised Statutes Annotated, if the applicant meets all of the criteria under this subsection and has obtained the written consent of all affected abutting landowners.

4. Limited Variance from dimensional standards.

Applicants may obtain a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the applicant and applicant's property would cause a practical difficulty as hereafter defined and when the following conditions exist:

a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
c. The practical difficulty is not the result of action taken by the petitioner or a prior owner.
d. No other feasible alternative to a variance is available to the petitioner;
e. The granting of a variance will not unreasonably adversely affect the natural environment; and
f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, dimensional standards means and is limited to the ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, practical difficulty means that the strict application of the ordinance to the property precludes the ability of the applicant to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

A variance under this subsection is strictly limited to permitting a variance from dimensional requirements. Except as follows, a variance under this subsection may not exceed 20% of any dimensional requirement. A variance under this subsection may exceed 20% of a set-back
requirement if the applicant meets all of the criteria under this subsection, has obtained the written consent of all affected abutting landowners and the variance is not prohibited under subsection D. 

(Amended May 13, 2006)

D. Specified variances prohibited:

(1) No use variance for a use permitted in medium density residential districts shall be permitted in low-density residential districts. No use variance for a use permitted in business districts shall be permitted in any residential district.

(2) No variance shall be granted which would result in a use or development of the lot or parcel in question which would not be in harmony with the general purpose and intent of this article or the comprehensive plan of the town; which would be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvement permitted in the vicinity; or which would materially impair an adequate supply of light and air to properties and improvements in the vicinity, substantially increase congestion in the public streets, increase the danger of flood or fire, or endanger the public safety.

(3) No variance shall be granted which would be greater than the minimum variance necessary to relieve the undue hardship of the applicant.

(4) Except for appeals concerning nonconforming dwelling units in existence and use prior to April 18, 1984, no variance shall be granted which would permit the alteration of a structure to accommodate any additional dwelling unit as a conditional use without meeting the requirements which would otherwise be a condition precedent to such conditional use treatment.

E. Conditions on variances; variances less than requested. Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

F. Limitations on variances. No variance permitting the erection or alteration of a building shall be valid for a period longer than six (6) months. or such other time as may be fixed at the time granted not to exceed two (2) years, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. One (1) or more extensions of said expiration dates may be granted if the facts constituting the basis of the decision have not materially changed and the two-year period is not exceeded thereby. No variance relating to the establishment or maintenance of a use not involving a building or structure shall be valid for a period longer than six (6) months, or such other time as may be fixed at the time granted not to exceed two (2) years, unless an
occupancy permit is issued and a use commenced within such period; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby.

G. Recording of variances. No variance shall be valid unless, within thirty (30) days of final approval of the variance, a certificate describing the variance has been recorded by the applicant for the variance in the registry of deeds as required by 30 M.R.S.A. Section 4963.

H. Shoreland variance requests to be sent to DEP. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals. (Amended May 8, 2010)

13.6 Conditional uses.

A. Authority. The board of appeals may, subject to the procedures, standards and limitations set out in this section, approve the issuance of a conditional use permit authorizing development of conditional uses listed in this article.

B. Procedure:

(1) Application. Applications for conditional use permits shall be submitted to the building authority. A nonrefundable application fee, as established from time to time by the selectmen to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the code enforcement officer but shall in all instances contain at least the following information and documentation:

a. The applicant's name and address and his or her interest in the subject property and a copy of the deed;
b. The owner's name and address if different than the applicant;
c. The address, or chart, block and lot number as shown in the records of the office of the assessor of the subject property;
d. The zoning classification and present use of the subject property;
e. The particular provision of this article authorizing the proposed conditional use;
f. A general description of the proposed conditional use;
g. Where site plan approval is required by Article 10 (Site Plan Review), a preliminary or final site plan as defined by Article 10 (Site Plan Review).

(2) Public hearing. A public hearing shall be set at a reasonable place and time (not to
exceed 60 days from receipt of a completed application for conditional use), advertised and conducted by the board of appeals in accordance with this Article 13 (Zoning Board of Appeals).

(3) Action by the board of appeals. Within thirty (30) days following the close of the public hearing, the board of appeals shall render its decision, in a manner and form specified by Article 13 (Zoning Board of Appeals), granting the application for a conditional use permit, granting it subject to conditions as specified in subsection (d), or denying it. The failure of the board to act within thirty (30) days shall be deemed an approval of the conditional use permit, unless such time period is mutually extended in writing by the applicant and the board. Within five (5) days of such decision or the expiration of such period, the secretary shall mail notice of such decision or failure to act to the applicant.

C. Conditions for conditional uses:

(1) Authorized uses. A conditional use permit may be issued for any use listed as a conditional use in the regulations applicable to the zone in which it is proposed to be located.

(2) Standards. Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines that:

a. There are unique or distinctive characteristics or effects associated with the proposed conditional use;
b. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and
c. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

D. Conditions on conditional use permits. The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.

E. Effect of issuance of a conditional use permit. The issuance of a conditional use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the town, including but not limited to a building permit, a certificate of occupancy, subdivision approval and site plan approval.

F. Limitations on conditional use permits. No conditional use permit shall be valid for a period longer than six (6) months from the date of issue, or such other time as may be fixed at the time granted not to exceed two (2) years, unless the conditional use has been commenced or is issued and construction is actually begun within that period and is
thereafter diligently pursued to completion; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby. A conditional use permit shall be deemed to authorize only the particular use for which it was issued and such permit shall automatically expire and cease to be of any force or effect if such use shall for any reason be discontinued for a period of twelve (12) consecutive months or more.

G. Appeals from board decisions. Appeals from any decision of the board of appeals or, where applicable, the planning board respecting a conditional use permit shall be to superior court.
ARTICLE 14: PLANNING BOARD

14.1 Created

There is hereby created a planning board.

14.2 Composition.

There shall be a planning board of seven (7) members. Members of the planning board shall be residents or property owners of the Town of Long Island.

14.3 Fees (Adopted May 9, 2009)

A. Minor Site Plan Review- - - - - $350.00
   Except for single and two family dwellings and changes in use $ 60.00

B. Major Site Plan Review- - - - - $350.00
   Except for changes in use - - - - $ 60.00

C. Subdivision Fee, each lot or unit - - - - $ 30.00

D. Site Plan Review Amendment - - - - $175.00
ARTICLE 15: WIRELESS COMMUNICATION FACILITIES

15.1 Purpose. These standards are designed and intended to balance the interests of the residents of the Town of Long Island, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town. Beyond the objectives described in The Land Use Ordinance, these wireless Communication Facilities standards are also intended to:

a. Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;

b. Establish clear guidelines, standards and time frames for the town to regulate wireless communications facilities;

c. Ensure that all entities providing Wireless Communications Facilities within Long Island comply with the ordinances of Long Island;

d. Permit the Town of Long Island to continue to fairly and responsibly protect public health, safety and welfare;

e. Encourage the siting of Wireless Communications Facilities to co-locate, thus minimizing adverse visual impacts on the community;

f. Support the goals and policies of the comprehensive plan, especially the orderly development of the town with minimal impacts on existing residential uses;

g. Protect the scenic and visual characteristics of the community, as identified in the Long Island comprehensive plan, to the greatest extent possible;

h. Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes; and

i. Minimize any potential adverse effect of a Wireless Communication Facilities on property values.

15.2 Definitions. The following terms are applicable for reviewing an application for wireless communication facility and ensuring that applicable standards are met.

a. Alternative Tower Structure (ATS)- Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, and similar alternative mounting structures that camouflage or conceal the presence of antennas or towers associated with a Wireless Communication Facility.

b. Antenna/Antenna Array- A device used in communication that transmits or receives radio or electromagnetic frequency signals. A system of one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy. These include, but are not limited to omnidirectional...
antennas (whip or rod), directional antennas (panel) and parabolic antennas (dish or disc).

c. **Antenna Support Structure**- Any pole, telescoping mast, tower tripod, or other structure that attaches to a tower and supports one or more antenna(s).

d. **Designated Scenic Resource**- A specific location, view, or corridor as identified as a scenic resource in Long Island’s Comprehensive Plan or by a state or federal agency that consists of (1) a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object such as a mountain, resulting in a narrow corridor or a group of objects such as a mountain range resulting in a panoramic view corridor; or (2) lateral terrain features such as valley sides or woodland as observed to either side from a viewpoint on a public way or within a public recreational area.

e. **Equipment Facility**- Any structure used to contain ancillary equipment for a wireless communication facility, including cabinets, shelters, a build out of an existing structure, pedestals and other similar structures.

f. **FAA**- Federal Aviation Administration

g. **FCC**- Federal Communication Commission

h. **Height, Wireless Communications Facility Tower or Alternative Tower Structure (ATS)**- The vertical distance measured from the lowest point within twenty-five (25) feet of the base of the structure on the ground to the highest point of the tower or ATS, including the base pad, all antennas and other attachments. When towers are mounted upon buildings or other structures, the total vertical height is measured from the lowest point within twenty-five (25) feet of ground level of the building or structure to the highest point of all appurtenances on the tower.

i. **New Tower**- A wireless communication tower that is constructed after the adoption of these standards.

j. **Normal Maintenance**- The regular, routine maintenance of a WCF including but not limited to changing light bulbs, plowing and maintaining the existing access road and gate, fence repair and maintenance, maintenance of the buffer, replacing an existing antenna with a functionally equivalent antenna, and changing or repairing electronic components contained within an existing building (not a WCT) to similar electronic components that do not increase the broadcast capacity of the WCF in excess of the exemption standards contained in FCC Bulletin #65. This definition specifically includes painting provided that the painting is done in accordance with the standards established in Section 7(b) (1) of this Division 29. This definition specifically excludes widening an access road, increasing tower height, replacing light fixtures and increasing the broadcast capacity of a WCF in excess of the exemption standards contained in FCC Bulletin #65.
k. **Wireless Communications**- Any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including, but not limited to, telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, cellular, personal communications services (PCS), specialized mobile radio (ESMR), paging, radio, television and similar services that currently exist or that may in the future be developed.

l. **Wireless Communication Facility**- A facility that transmits, receives, distributes, provides or offers wireless communications together, with the facility’s associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals, wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features.

m. **Wireless Communication Tower- Co-Located**- A Wireless Telecommunications Tower or ATS supporting one or more antennas/antenna array(s) and owned or used by more than one public or private entity. A Co-Located Tower may include two (2) or more antenna array(s) serving the same company provided that the applicant can demonstrate to the Planning Board that separate levels are a practical necessity.

n. **Wireless Communication Tower (WCT)**- A structure designed and constructed specifically to support an antenna array that provides Wireless Communication. A tower may be a monopoly, self-supporting (lattice) tower, guy-wire support tower or other similar structure, and includes all supporting lines, cables, wires, and braces.

15.3. **Review and approval authority.** No construction, alteration, repair or change shall occur on any Wireless Communication Facility without written approval from the Long Island CEO or Planning Board as follows:

a. Normal Maintenance, as defined in this Article 15, is allowed without a permit from the CEO or Planning Board.

b. No construction, alteration, repair or change shall occur on any Wireless Communication Facility unless all required permits are obtained including, but not limited to, any federal or state permits.

c. Planning Board review and approval is required for the following:

1) Any WCF that does not exist as of the adoption of these standards (3/20/99).

2) An additional antenna or antenna array(s) or increase in broadcast capacity in excess of the exemption standards contained in FCC Bulletin #65 on any WCF not previously and specifically approved by the Planning Board.

3) Any alteration to an existing NCWCT that requires Planning Board review as
established in Section 9 entitled "Alterations to Existing Facilities"

4) Any increase to the tower height not previously and specifically approved by the Planning Board.

d. A building permit, in accordance with the standards established in Section 4 entitled “Building Permit Requirements”. must be obtained from the Long Island CEO for the following:

1) Construction of a WCF that does not exist as of the adoption of these standards
2) Any alteration to an NCWCT except normal maintenance (see definition).
3) Any WCF application approved by the Planning Board.

15.4 Building Permit Requirements. The Long Island CEO shall ensure that the following requirements are met prior to the issuance of a Building Permit for a WCF.

a. Submission Requirements: The following shall be submitted to the CEO by the applicant:

1) Names, addresses, phone numbers and other means of contacting companies and persons that will function as contacts for the required inspections and monitoring of the WCF.
2) Any applicable plans or information deemed necessary by the CEO to issue a permit for the WCF in accordance with these standards. This may include plans and information from a professional engineer at the applicants expense.
3) For any permit request to construct a Co-Located WCT in excess of the maximum height permitted for a single use tower, the applicant will submit to the CEO executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.
4) For any permit request to construct a Co-Located WCT in excess of the maximum height permitted for a single use WCT, the applicant must submit antenna arrays for each anticipated co-locating entity.
5) For any permit request involving an existing NCWCT, the applicant shall supply information regarding the estimated construction cost of the tower prior to the proposed alterations and the estimated construction cost of the tower after the proposed alterations. For the purposes of determining the estimated construction cost for this section, the cost shall be based on a complete rebuild of the existing tower excluding the cost of any electronic equipment and antenna/antenna array(s).

b. The Long Island CEO shall not issue a permit for the construction of a new Wireless Communication Facility or any change to an existing Wireless Communication Facility that requires Planning Board review until the Planning Board has approved the facility and all applicable conditions have been met.

c. The CEO shall not issue a building permit for a WCF unless all required permits are
obtained and filed with the town including but not limited to any applicable federal or state permits or licenses.

d. In the event that an applicant proposes to add capacity, the Long Island CEO may issue a permit for additional antenna(s), antenna array(s) or broadcast capacity if the facility has been previously and specifically approved by the Planning Board for the requested changes. The Planning Board approval must specifically state that this capacity is allowed and the allowed time period during which CEO may issue a permit for the additional capacity. Any increase in broadcast capacity in excess of the exemption standards contained in FCC Bulletin #65 must be previously and specifically approved by the Planning Board.

e. The CEO shall have the authority to use professional and technical services to review proposed plans and to inspect the construction of an approved project. The applicant shall pay all costs incurred for these review and inspection services.

f. If inspections and/or proof of insurance is required by the Planning Board, all necessary forms and inspection schedule(s) shall be submitted.

g. If the Planning Board required a performance guarantee and/or abandonment removal bond for the proposed WCF, the amount and type of the bond(s) as required by the Planning Board shall be received and found acceptable by the CEO prior to the CEO taking action on any building permit application.

h. For any NCWCT, the CEO shall keep records of the repairs made to each Tower to determine whether or not Planning Board review is required as established in section (9) below entitled Alterations to Existing Facilities. In order to ensure that the information provided by the applicant for this standard is accurate, the CEO shall have the authority to require third party review of the information submitted by the applicant, as authorized below in Section (5)(d) entitled “Third Party Authority”.

15.5 Planning Board Review

a. In all cases, the burden of proof shall be on the applicant to demonstrate to the Planning Board that the required standard(s) have been met.

b. Procedure The applicant shall submit all of the items listed below in Section (5)(f) entitled “Submission Requirements” for all applications to the Long Island CEO. If an applicant proposes a new tower, items 1 through 3 in Section (6)(a) entitled “New Tower Requirements- Submission Requirements” must also be submitted to the CEO. The applicant must submit, in writing, request(s) for any waivers to the submission requirements.

Once the CEO has determined that the application is complete, the Planning Board shall review the submitted materials at the next available regular Planning Board meeting. Once the Planning Board has determined that there is sufficient information to make a determination as to whether or not co-location is a feasible option possible, the Planning
Board shall make the determination as outlined below in “Co-Location Determination”. When the Planning Board has resolved the co-location, the applicant shall submit the required submissions in the Planning Board and the Board shall review the application as established in Section (5)(e) below entitled “Planning Board Review Guidelines”.

c. **Co-location determination**  In accordance with the purposes stated above, Long Island’s Wireless Communication Facility standards strongly encourage co-location on existing tower structures, on ATS’s on new towers on existing tower sites, or modifying an existing WCT to accommodate additional antenna/antenna array(s) or increased broadcast capacity. Proposals for the siting of WCF’s or antennae on existing towers or ATS’s or at locations that presently have WCT’s are favored over proposals for construction of new towers on sites where towers do not presently exist.

The Planning Board review process guides WCF applicants towards co-location and requires the applicant to prove, among other factors, that their proposed antennas or facilities cannot be accommodated by existing tower structures. The Planning Board shall have the authority to determine whether or not co-location is a reasonable, practical and feasible option based on the following;

1) Required submissions stated below in Section (5)(f) entitled “Submission Requirements” for all applicants.
2) The purposes for these WCF standards stated above in Section 1 entitled “Purpose”.
3) The Planning Board’s interpretation of the information provided by the applicant in submissions 1 through 3 required below in Section (6)(a) entitled “New Tower Requirements- Submission Requirements”.

The Planning Board shall determine, by a vote, whether or not co-location will be required. If the Planning Board determines that co-location will not be required, the application can be considered under Section 6 entitled “New Tower Requirements.”

d. **Third Party authority**. The Planning Board shall have the authority to require that information and documentation relating to the required submissions, review third-party professional at the expense of the applicant to ensure that the requirements of this section and the zoning ordinance are met and maintained. The qualified third party shall, at the request of the Planning Board, verify the accuracy of the information presented by the applicant to the Board. This third party authority shall specifically include verification of the information, facts, and costs associated with determining whether or not co-location is a feasible option.

The Planning Board shall have the authority to chose the third party or parties deemed necessary by the Planning Board to review the application. The Planning Board may require a peer review. If the Planning Board determines that such peer review is insufficient, the Planning Board shall have the authority to require a more comprehensive and independent review. The cost of the peer review or independent review shall be borne by the applicant.
e. **Planning Board Review Guidelines.** The Planning Board may require that the applicant submit documentation, in writing, that the guidelines established below will be met and maintained. The Planning Board will be guided in its consideration of a WCF application by the following parameters;

1) All standards contained in Article V of this ordinance entitled Site Plan including but not limited to “Criteria and Standards” and “Performance Standards”.
2) All standards contained in Section 7 of these WCF standards entitled “Performance Standards”.
3) The height of the proposed tower, alteration or other necessary structure does not exceed that which is essential for its intended use.
4) The proximity of the tower and impact to residential development or zoning districts shall be minimized.
5) The nature of uses on adjacent and nearby properties shall be reviewed and the impact of the WCF minimized.
6) The WCF shall minimize changes to the existing natural topography to the maximum extent feasible and shall take into consideration the surrounding topography.
7) The WCF shall utilize the surrounding tree coverage and foliage as a buffer. Removal of mature trees shall be strongly discouraged.
8) The design of the WCF including the tower, antenna, antenna array(s) and any functionally dependent structures shall have the effect of reducing or eliminating visual obtrusiveness.
9) The WCF shall minimize visual impacts on view sheds, ridge lines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
10) The proposed WCF facility will not unreasonably interfere with the view from any public park, natural scenic vista, historical building, major view corridor, shoreline or Designated Scenic Resource.
11) The proposed facility is not constructed in such a manner as to result in unnecessary height, mass, and guy-wire supports with documentation having been provided and reviewed regarding the design capacity and/or the remaining co-location capacity of the tower/facility.
12) The time period that the applicant is permitted to complete the project shall be determined by the Planning Board.
13) Based on information submitted by the applicant, the Planning Board shall ensure that mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.
14) Based on information submitted by the applicant, the Planning Board shall ensure that creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.
15) Based on information submitted by the applicant, the Planning Board shall ensure that other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the
effect of the location on visually sensitive areas such as the shoreline zone, pace areas.

16) An inspection schedule acceptable to the Planning Board shall be established.
17) A performance guarantee and/or removal guarantee in accordance with Section 8 entitled “Additional Standards & Criteria” may be required by the Planning Board.
18) The WCF will not unreasonably or significantly affect or de-value neighboring property(s).
19) The Planning Board shall consider the vantage points chosen by the applicant as part of the visual analysis required in Section 6 entitled New Tower Requirements. If the Planning Board determines that additional vantage points should be considered, the applicant shall complete the visual analyses for these locations for the Board’s consideration.

f. Submission requirements for all applications

1) All relevant submissions, as determined by the Planning Board, contained in Article V of this ordinance entitled Site Plan.
2) A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities that are contracted to locate on the tower must join as applicants.
3) Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.
4) An inventory of all of the provider’s existing and approved towers, antennas or sites within the Town of Long Island and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. Service area maps or network maps of the applicant’s existing and proposed facilities in Cumberland, Androscoggin, York, Sagadahoc and Lincoln Counties.
5) Identify any other telecommunication facilities existing or proposed on the site.
6) Details of all existing or proposed accessory structures including buildings, parking areas, utilities, gates, access roads, etc.

15.6 New Tower Requirements

a. Submission Requirements.

1) Evidence that written notice was sent, by pre-paid first class United States mail, to all other such tower and alternative tower structure owners and licensed wireless communication providers in the Town utilizing exiting towers and ATS's and to owners of such towers and ATS's within a 1 mile search radius of the proposed tower. This notice shall state the applicant’s siting needs and request information the co-location capabilities of the existing or previously-approved facilities. Evidence that this notice requirement has been fulfilled shall include a name and address list, copy of the notice that was sent, and a statement, under oath, that the notices were
sent as required.

2) Evidence that existing or previously approved towers and alternative tower structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence should be documentation from a qualified and licensed professional engineer that:

   a) Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering the existing and approved towers and alternative tower structures, and the existing and approved towers cannot be reinforced or enlarged to accommodate planned or equivalent equipment at a reasonable cost;
   b) Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost;
   c) Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or
   d) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.

3) Evidence that the proposed tower cannot be co-located on existing or previously approved tower sites. Evidence should include an assessment of whether such tower sites could be changed to accommodate the proposed tower, and a general description of the means and projected cost of shared use of the existing or approved tower site.

4) A report from a Registered Professional Engineer in the State of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s), and volume(s) of antenna(s) that it can accommodate and the basis for the calculation of capacity.

5) A letter of intent that commits the tower owner and his or her successors in interest to:

   a) respond in a timely, comprehensive manner to a request for information from a potential co-location applicant
   b) negotiate in good faith for shared use by third parties that have received an FCC license or permits; and,
   c) allow shared use if an applicant agrees in writing to pay reasonable charges.

6) Proof of financial capacity to build, maintain, and remove the proposed tower must be submitted.
7) Photos showing site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties.

8) Landscaping plan reflecting location of proposed areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.

9) Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

10) Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.

11) A visual analysis, which may include photo montage, field mock up, or other techniques, that identifies the potential visual impacts, at design capacity, of the proposed facility. This visual analysis shall include sufficient information for the Planning Board to determine how the proposed site will visually change. The analyses should include before and after analysis of the site from adjacent public views and roads as well as from adjacent vantage points. Consideration shall be given to views from the shoreline and public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and structures, specifically those listed in the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed Wireless Communication Service.

b. Location- Any Wireless Communication Tower not existing as of the date of adoption of this ordinance shall conform to the following standards.

1) Wireless communication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. If the facility is to be sited above the ridge line it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment to the maximum extent possible using available materials, natural buffers, and
the Tower location site.

2) No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

3) WCF’s are allowed in the IR-1 Zoning District provided that the base of any tower is located on land that is at least ninety (90) feet above mean sea level as of the adoption of these standards. The Planning Board shall not have the authority to waive this standard.

4) Towers are specifically prohibited from the following zoning districts; Commercial, Industrial, IR-2, and any Shoreland Zone. The Planning Board shall not have the authority to waive this standard.

c. **Tower Height.** Any Wireless Communication lower not existing as of the date of adoption of this ordinance shall conform to the following standards.

1) Towers shall not exceed thirty (30) feet above the existing mature tree line immediately adjacent to the tower. The Planning Board shall have the authority to determine the height of the existing mature tree line based on information provided to the board by the applicant and, if deemed necessary, verified by the Planning Board.

2) Only the minimum height necessary to accomplish the technical needs of the applicant shall be approved by the Planning Board.

3) Towers shall not exceed a height of seventy five (75) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed a maximum tower height of one hundred and twenty-five (125) feet. The Planning Board shall not have the authority to waive this standard.

4) Installing antennas on alternative tower structures is permitted provided that the resulting ATS height does not exceed a maximum height of one hundred twenty five (125) feet and that the tower does not extend more than (35) feet higher than the present highest point of the building or structure. The Planning Board shall not have the authority to waive this standard.

d. **Space and Bulk Requirements.** Any Wireless Communication Facility not existing as of the date of adoption of these standards (4/5/00) shall conform to the following
1) **Mounting and Dimensions** - The mass and dimensions of antennas on a tower or alternative tower structure shall be governed by the following criteria:

a) Whip antennas shall not exceed 20’ in length for an individual antenna, and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.

b) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20’ vertical section of a tower with no single dish being more than 8’ in diameter and 5’ in depth, unless otherwise required per the path reliability and/or tower structural studies.

c) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8’ in length nor 2’ in width.

d) **Antenna Mass per user.** The mass of antennas, including required antenna support structures, on a tower shall not exceed five hundred (500) cubic feet per array, with no one dimension exceeding fifteen (15) feet per array. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical, or pyramidal geometric shapes encompassing the perimeter of the entire array and all of its parts and attachments.

2) **Lot Area:** A new wireless communications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.

3) **Access** - The Planning Board shall have the authority to review and approve the access to the tower site. If the Planning Board determines that there may be future development on the access road to the tower, it may require a fifty (50) foot Right of Way. Road access to the telecommunication site shall be the minimum size necessary to allow safe access.

4) **Setbacks.**

   a) The center of the tower base shall be set back from all structures by a distance of at least one hundred (100%) percent of the total tower height. Equipment facilities and other non-residential structures deemed functionally dependent by the Planning Board for the WCF may be permitted within the fall-down zone if desired by the
applicant, if guy wires are used, they shall meet applicable building setback from the property line.

b) If the site is leased, a fall-down zone easement, approved by the Planning Board and recorded in the Registry of Deeds, may be acceptable. Such fall-down easements shall prohibit any structures, existing or in the future, within the area 100% of the total tower height. Easements on several parcels may be acceptable provided that the fall-down easements cover the area within one hundred 100% percent of the total tower height.

c) Equipment facilities shall meet the required District setback.

d) There shall be no setback requirements for antennas mounted on alternative tower structures. The standard District setbacks shall continue to apply for and equipment facilities, where applicable.

15.7 Performance Standards. All applications requiring Planning Board review shall meet and maintain the following performance standards to the maximum extent possible as determined by the Planning Board.

a. Structural Design Standards

1) Any new single-use tower shall be designed to structurally support a minimum of two (2) additional antenna arrays.

2) Communication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

3) The applicants engineer shall provide documentation showing that the proposed WCT meets or exceeds the most current standards of the American National Standards Institute ANSI/EIA/T1A-222 for Cumberland County relative to wind and ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.

4) For towers or antennas placed on buildings or alternative tower structures, the applicant shall also provide written certification from a structural engineer that the building or ATS itself is structurally capable of safely supporting the tower, antennas, their accompanying equipment and ice and wind loads.

5) A proposal to construct a new Co-located WCT taller than the maximum evidence that the tower can structurally support a minimum of two (2) antenna arrays for each anticipated co-locating entity. (Section (6)(c) entitled “Tower Height”)

6) Radiation Emission Standards. The design, siting and operation of the tower and any related structures must assure that all potentially hazardous radiation are controlled or contained, and that radiation levels are at safe levels as determined by applicable State and Federal standards.
b. Aesthetics

1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but is not limited to, having a galvanized finish, being painted "flat" blue gray or in a skytone above the top of surrounding trees and earthtone below treetop level.

2) Equipment facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.

3) Equipment facilities shall be no taller than one story in height and shall be created to look like a building or facility typically found in the area.

4) If lighting is required by State or Federal regulations, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.

5) Antenna arrays and microwave dishes located on an alternative tower structure shall be placed in such a manner so as to be as indistinguishable as possible from the current appearance of the existing structure as viewed from the ground level adjacent to the ATS. If, however, circumstances do not permit such placement, the antenna array and dishes shall be placed and colored to blend into the architectural detail and coloring of the host structure.

6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

7) If more than one tower is proposed on a single lot or parcel, they shall be together as technically possible.

8) Buffering Requirements. Vegetative buffering must be provided to screen, at ground level, the tower including any accessory buildings and structures from adjacent land uses. The preservation of existing mature vegetation, especially trees, is strongly encouraged by the Planning Board. If existing vegetation at the time of the application does not provide adequate buffering, as determined by the Planning Board, to minimize visual impact of the structure, the Planning Board may require the applicant to provide, at the applicant's expense, a visual impact analysis by a qualified professional, who will provide a written recommendation to the Planning Board for approval.

All telecommunication facilities shall maintain the required setbacks as undisturbed vegetated buffers, except for the access road. The Planning Board may require additional plantings in the buffer area(s) to enhance the quality and effectiveness of the buffer area to serve as a visual screen. The size and quantity of plantings shall be subject to Planning Board approval.
c. Safety/Security

1) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.
2) Manually operated or motion detecting security lighting is permitted.
3) A chain-link (security) fence at least eight feet in height from the finished grade shall be provided around any tower.
4) Access to tower(s) shall be through a lockable gate. Roof mounted towers are exempt.

15.8 Additional Standards and Criteria

a. Performance Guarantee. Any application that required Planning Board review and approval may be required to post a performance guarantee for the development, construction, or modification to the WCF. The Planning Board shall determine whether or not a performance guarantee is required based on the Board's assessment of the potential of the project to cause the Town to incur expenses, such as to stabilize the site if the project is not completed.

The amount of the guarantee shall be sufficient to return the land to a condition as near to the original pre-construction condition as possible as determined by the Planning Board. The amount of the guarantee shall be determined by the Planning Board based on estimates from independent contractors. The type of guarantee shall be approved by the Town Selectpersons. The guarantee shall be released only as authorized by the Planning Board.


The applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond or an escrow account in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Estimates of demolition and removal costs shall be provided by an independent contractor and shall not be based on services being provided by town employees and town equipment.

The amount of the guarantee shall be approved by the Planning Board and shall be sufficient to return the land to a condition as near to the original re-construction as possible as determined by the Planning Board. All above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible. The type of the guarantee shall be approved by the Board of Selectpersons. The Board of Selectpersons shall have the authority to require either a certified check payable to the Town of Long Island, a savings account passbook issued in the name of the Town or a faithful performance bond running to the Town of Long Island and issued
by a surety company authorized to do business in Maine and acceptable to the Board of Selectpersons.

All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum 30 day notice of cancellation or non-renewal be sent by certified mail to the Town of Long Island. The performance guarantee covering such removal shall be for a minimum term of five years. It must contain a mechanism, satisfactory to the Planning Board, for review of the cost of removal of the structure every five years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate so necessitate.

c. Removal and Storage of Materials

1) All used structural and electronic components shall be removed and properly disposed of once they have exceeded their useful life and are no longer in use. This standard includes, but is not limited to, removing used guy wires, used fence parts, and structural components for towers.

2) Outside storage of materials shall not be permitted except as specifically approved by the Planning Board.

15.9 Alterations to Existing Facilities

Alterations to New or Existing Conforming Wireless Communication Towers. Any Conforming Wireless Communications Tower and its related buildings may perform normal maintenance and repairs without a permit from the CEO. Planning Board review and approval is accordance with the standards established in subsection 5 of this Article entitled "Planning Board Review" is required if any of the following changes are proposed:

1) Any increase in the number or size of antenna(s)/antenna array(s) or broadcast capacity in excess of the exemption standards contained in FCC Bulletin #65.
2) Any increase in tower height.
3) Any change to tower lighting or existing buffering.
4) Any change to the access road or the size (square feet or volume) of any structure on site.

15.10 Inspections.

a. Inspections of towers by either a Registered Professional Engineer in the State of Maine or a qualified third party mutually agreed upon by the applicant and the Long Island CEO shall be performed to insure structural integrity. Such inspections shall be performed as follows:

1) Monopole towers—at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.
2) Self-supporting towers—at least once every five years following completion of
construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.

3) Guyed towers-at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.

b. The inspection report shall be submitted to the CEO within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, may require repair or demolition of the tower.

c. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO for safety reasons.

d. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

15.11 Removal of Abandoned Wireless Communication Facilities.

a. The owner of a wireless communication facility shall notify the Code Enforcement Officer of the date of cessation of use of the facility or any component(s) thereof within one month from the date of such cessation. If the owner fails to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive.

b. Any WCF or component thereof that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of an abandoned WCF or component thereof shall remove it within ninety (90) days of receipt of notice from the Code Enforcement Officer of determination of abandonment.

c. The applicant shall be required to post a performance guarantee in accordance with standards established in Section 8 entitled “Additional Standards & Criteria”.

d. If there are two or more users of a single tower or WCF, then this provision shall not apply until all users cease using the tower or WCF.

e. If all antennas above a manufactured connection on a tower are removed, the resulting unused portions of the tower shall subsequently be removed within six (6) months.

f. The replacement of all or portions of a WCF previously removed requires a new site plan approval as established in Section 5 entitled “Planning Board Review”.
15.12 **Waiver Provision.** The Planning Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law and with the purposes of this Ordinance.
Chapter 15

LICENSES AND PERMITS

Art.  I.  In General, §§ 15-1 – 15-14

ARITCLE I.  IN GENERAL

Sec. 15-1.  Definitions.

Words used in this chapter shall have their common meanings except that, as used in this chapter or in chapters related to this chapter, the following terms shall have the meanings set forth in this section, unless the particular licensing provision, or the context in which the terms appears, clearly establishes that a different meaning was intended:

*Actual ownership interests* shall mean and include any legal or equitable interest in either the licensed firm, corporation, partnership or other entity, or the assets of that entity which are the subject matter of the license, other than any mortgage or security interest created solely as security for valuable consideration. In the case of stock in a corporation, the terms shall be limited to those persons who individually or collectively have an interest in more than one-half of the voting shares of the corporation. In the case of a limited partnership, the term shall not include ownership of limited partnership shares.

*Bona fide nonprofit organization* shall mean and include a bona fide nonprofit, charitable, educational, political, civic, recreational, patriotic or religious organization, which is organized under the provisions of 13 M.R.S.A. § 901, or 13-B M.R.S.A. § 201, or which is recognized as such by the Internal Revenue Service under 26 U.S.C.A. § 501(c)(3).

*Bottle club* means any person operating on a regular basis a premises for social activities in which members or guests provide their own alcoholic beverages.

*Disqualifying criminal conviction* shall mean and include any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally, or for which a pardon, certificate of rehabilitation, or the equivalent under the law of the sentencing jurisdiction has been granted, or which is not rationally related to the purpose of licensing the particular activity or device.
*Person aggrieved* shall mean and include any person whose license is suspended or revoked or whose license application is denied by the clerk or any other administrative official charged with responsibility for the granting or supervision of any license.

*Principal officers* shall mean and include the applicant and any officer, director, partner, owner, manager, or person who either has an actual ownership interest in the entity or directs any policy of the entity.

(Code 1968, § 901.3; Ord. No. 231-80, 12-22-80; Ord. No. 562-84, § 1, 4-23-84; Ord. No. 183-84, 9-24-84)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

**Sec. 15-2.** Applicability.

It is the sense of the city council that, to the extent practical, licensing procedures within the city should be uniform, and should be conducted at all times so as to give the maximum degree of protection to the licensee consistent with protection of the public health, safety and welfare. To that end, this chapter shall apply to all licenses and permits issuable by the city through the city clerk, and all licenses and permits issued by the state to which the city council have a right or duty to offer recommendations, comments, or to consent, set forth in this Code. Notwithstanding the aforesaid, any more stringent licensing or other requirement of this Code which is not inconsistent with this chapter, shall be deemed to be an additional requirement of this chapter.

(Code 1968, § 901.1; Ord. No. 231-80, 12-22-80; Ord. No. 562-84, § 2, 4-23-84)

**Sec. 15-3.** License required.

(a) No person shall engage in, operate any business, or use or permit the use of any device for which one (1) or more licenses are required by this Code or permit others operating under such licenses to act, without having obtained each and every such license required therein and shall not operate or use such license or device during any time that the applicable license has been suspended or after revocation as provided herein.

(b) Any person engage in, or operating any business or activity, or who uses or permits the use of any device for which a license is required, shall procure a license for each and every such business activity, device or location of each activity or device unless this Code specifically provides to the contrary.

(c) Every license shall be exhibited in a conspicuous place on the premises, device or vehicle at all times that the premises, device, or vehicle is open to the public.

(Code 1968, § 901.2; Ord. No. 231-80, 12-22-80)

**Sec. 15-4.** Licensing authority.

(a) All licenses shall be issued, denied, suspended or revoked and all hearings shall be held by the city clerk except as expressly provided in this Code. The clerk is authorized to notify the state licensing division of bureau of alcoholic beverages that the
city council consent to the extension of existing state liquor licenses to city licensees pending the next meeting of the city council.
(Code 1968, § 901.4; Ord. No. 231-80, 12-22-80; Ord. No. 576-81, § 1, 3-16-81; Ord. No. 361-82, 1-4-82; Ord. No. 562-84, § 3, 4-23-84)

Sec. 15-5. Applications.

(a) All applications shall be made in writing on a form provided by the clerk. Each application submitted to the clerk shall state the name and business address of each applicant, the license desired, location to be used, if any, the date of the application, and such additional information as may be deemed necessary or useful by the clerk in determining whether such permit or license applied for should be issued.

(b) Other papers:

(1) Any application for a license for which a criminal conviction is a disqualification under this Code shall be accompanied by a written waiver of the applicant’s right to privacy or confidentiality under the State Criminal History Records Act [16 M.R.S.A. § 611 et seq.] and otherwise to the extent necessary for the city clerk, acting through the chief of police, to determine whether or not such disqualification exists.

(2) If the applicant is other than a natural person, the names of all principal officers shall accompany the original application.

(3) A statement to the fact that no employee or officer of the city is beneficially interested in the license or licenses, or in lieu thereof, a statement of the names of such employees or officers as are beneficially interested.

(4) In the case of a renewal, the licensee shall submit to the clerk on a form provided by the clerk, a certified ownership report for the previous twelve (12) month period. Such report, among other things, shall list the names of all persons, or groups of persons acting in concert who at any time during the period had an actual ownership interest.

(5) Any organization claiming status as a bona fide nonprofit organization shall furnish sufficient evidence of such status.
(Code 1968, § 901.5; Ord. No. 231-80, 12-22-80)

Sec. 15-6. Fees.

(a) Application fees. Except as expressly provided, all applications for original licenses or for the consent of the city council other than a flea market, temporary FSE or auction, shall be accompanied by an administrative fee of twenty dollars ($20.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administrative fee of eleven dollars.
($11.00) to defray the cost of processing the application. The latter shall be refundable if the application is denied. In any case where notice by publication or mail is required, the applicant shall pay the cost of publication and postage in advance.

(b) Appeals fee. Appeals from determinations of the clerk shall be accompanied by a filing fee of twenty-five dollars ($25.00) and the appellant shall also pay the full cost of publication and postage in advance, if such notice is required. For the purposes of this subsection, notice by publication shall be deemed to apply to the hearing on appeal whenever the requirement of publication would exist in the first instance.

(c) Filing fees. Whenever any document, other than an application for any license, is required or permitted to be filed with the clerk in connection with any license, and no fee for such filing is otherwise prescribed, the fee for filing such document shall be two dollars ($2.00) for the first page, and one dollar ($1.00) for each page thereafter.

(d) Fees for issuance. Fees for issuance of licenses shall be as provided in section 15-12.

(e) Late fees. An additional fee shall be charged for issuance of any license after expiration of the holder’s prior license, unless the application for the renewal license was filed prior to such expiration. The additional fee for issuance or renewal of any license applied for after the applicant has commenced the activity, or has permitted the use of the device to be licensed prior to such issuance, shall be ten dollars ($10.00) or five (5) percent per month of the fee for issuance, whichever is greater, but shall not exceed the fee specified in this chapter for issuance of that license.

(f) Proration. The fee for issuance of an original license, unless issued late as provided in subsection (e), and which is issuable on an annual basis, but which when issued will not give the licensee twelve (12) full months use prior to expiration, shall be reduced by ten (10) percent for each full month that licensee will not have the use of the license, but in no case shall the license fee be reduced by more than fifty (50) percent. Notwithstanding the foregoing, there shall be no proration of the fee for excavators’ licenses issued pursuant to chapter 25, article VII of this Code.

(g) Fees to be cumulative. Fees provided for in this section shall be deemed cumulative and shall be in addition to any other fee or fees required for the issuance of any permit under section 15-12. Except as specifically provided, such fees shall not be waived, refunded or prorated, except that upon a successful appeal, the clerk shall credit the appeal fee toward the fee for issuance and shall refund any excess; and further, except that if, during the unexpired term of the license, a licensed activity is subsequently prohibited by amendment to the Code, the clerk shall refund to the licensee a portion of the license fee in accordance with the formula for proration of fees set forth in section 15-6(f). Where a maximum license fee is established by the state, the fees set by this chapter
shall be deemed cumulative to the extent of such maximum fee.
(Code 1968, § 901.6; Ord. No. 231-80, § 901.6, 12-22-80; Ord. No. 554-81, § 901.6, 3-2-81; Ord. No. 40-82, 6-21-82; Ord. No. 554-85, 5-14-85; Ord. No. 210-85, § 1, 10-21-85; Ord. No. 30-87, 7-6-87; Ord. No. 424-89, 5-15-89)

Sec. 15-7. Investigation of applicant.

Upon receipt of an application for any license or permit, other than a renewal application substantially identical to the original application, the clerk shall inquire of other city departments, as appropriate, for comments as to whether a license may be granted consistently with the provisions of the laws and ordinances enforced by such departments. In all appropriate cases, the building authority shall verify that the premises to be used for the proposed activity comply with the building code, electrical code, plumbing code and zoning ordinance, and if applicable, state junkyard screening law; the health authority shall cause inspections to be made of the proposed location of any premises dispensing food or liquor; the fire chief shall cause inspection to be made for the purpose of determining if city ordinances, a state law, or state regulations concerning fire and safety have been complied with; and if the license is not issuable to any class of persons, the police chief shall cause an investigation to be made of the principal officers or persons to be licensed. All such persons shall report to the clerk in writing, and copies of any such report shall be deemed a public record.
(Code 1968, § 901.7; Ord. No. 231-80, 12-22-80; Ord. No. 115-84, § 1, 8-6-84)

Sec. 15-8. Standards for denial, suspension or revocation.

(a) Grounds. In addition to any other specific provision of this Code authorizing such action, a license or permit may be denied, suspended or revoked upon a determination of the existence of one (1) or more of the following grounds:

1. Failure to fully complete the application forms; knowingly making an incorrect statement of a material nature on such form; or failure to supply any additional documentation required or reasonably necessary to determine whether such license is issuable, or failure to pay any fee required hereunder;

2. The licensed activity, or persons on the premises for the purpose of participating in the licensed activity, or persons patronizing the licensed device have caused one (1) or more breaches of the peace; or

3. There is a clear danger that a breach of the peace will occur if the licensed activity is permitted; or

4. The licensed activity or persons patronizing the licensed premises will substantially and adversely affect the peace and quiet of the neighborhood, whether or not residential, or any substantial portion thereof;
(5) The licensee has violated any provision of this Code in the course of the conduct of the activity or device for which the license or licenses have been applied for, or have been issued; or

(6) The occurrence of any event subsequent to issuance of the license which event would have been a basis for denial of the license shall be grounds for revocation thereof; or

(7) The applicant’s or licensee’s real or personal property taxes, or final judgments due and payable to the city, are determined to be in arrears as of the date of the license or application; or that real or personal property taxes or final judgments due and payable to the city on account of the premises for which application has been made or a license issued have not been paid in full as of the date of the license or application.

(b) Hearings.

(1) Except as expressly provided in this Code, no license to which this chapter applies may be revoked or suspended without prior notice to the licensee, and after a hearing.

(2) In the case of the suspension or revocation of a license, a hearing shall be given to the licensee and a generalized statement of the nature of the complaint constituting the basis for the proposed action shall be included in the notice of hearing. Unexcused failure of licensee to appear at the hearing shall be deemed a waiver of the rights to said hearing.

(3) Upon a determination that immediate and irreparable harm will be suffered by the public prior to the time that a hearing on suspension or revocation of a license can be scheduled and a finding of probable cause for such suspension or revocation, the city clerk may suspend a license, pending hearing, effective upon the giving of actual notice to the licensee; provided that the clerk shall give an opportunity to be heard as soon as practicable thereafter. At any hearing, the licensee shall be given the opportunity to answer the complaint and to present evidence. The complainant shall also be notified of the hearing and given the opportunity to be heard.

(4) All suspensions or revocations shall be upon substantial evidence and all hearings shall be conducted with substantial fairness and strict adherence to the rules of evidence shall not be required.

(5) All hearings on suspension or revocation of licenses shall be held within thirty (30) days of delivery to licensee of the generalized statement of complaint.
(c) **Abandoned licenses.** The applicant shall pay the issuance fee and obtain any license from the clerk within thirty (30) days after it has been approved by the city clerk. Upon failure to pay the issuance fee and obtain the license within said thirty-day period, the approval shall be void and the application deemed abandoned. For good cause shown, the clerk may extend the thirty-day period provided such extension does not result in the issuance of the license being delayed more than one hundred eighty (180) days from its approval by the city clerk.

(Code 1968, § 901.8; Ord. No. 231-80, 12-22-80; Ord. No. 291-83, 12-5-83; Ord. No. 562-84, §§ 4, 12-23-84; Ord. No. 196-88, 11-7-88)

**Sec. 15-9. Appeals.**

(a) **Procedure.** An appeal to the city manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the clerk by filing a notice of appeal and the prescribed fee with the city manager within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. Within two (2) business days of the filing of an appeal, the city manager shall designate himself or any agent or employee to act as hearing designee in the appeal. The hearing designee shall hear the appeal within ten (10) business days after the filing of the appeal and may affirm, reverse or modify the decision appealed from. The taking of an appeal shall not stay a decision appealed from, except that at the request of the licensee, the clerk may stay the effective date of a suspension, revocation or denial of a renewal license upon a finding that the public is not likely to suffer any harm during the pendency of the appeal. In such case, the clerk shall make a written finding of his or her decision in this regard and shall notify the appellant.

(b) **Scope of review.** On appeal, the hearing officer shall review the decision of the clerk and any disciplinary action taken pursuant thereto to determine whether the decision was based upon substantial evidence and the disciplinary action taken was proportionate to the violation. The hearing officer may take additional evidence with respect to such decision or action and if additional testimony or evidence is taken shall determine the appeal upon all of the evidence, except as provided in this section.

(c) **Appeal to the superior court.** Any person aggrieved by a decision of a hearing officer on appeal may appeal therefrom to the superior court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

(Code 1968, § 901.9; Ord. No. 231-80, 12-22-80; Ord. No. 562-84, § 6, 4-23-84, 9-24-84)

**Sec. 15-10. Notices of hearing.**

(a) **Content.** Whenever a public hearing is required, the clerk shall give notice of the time and place of the hearing, the type of license involved, and the nature of the hearing, and the address or location of the property involved.
(b) **Service.** Except as expressly provided, whenever notice by mail is required, such notice shall be mailed by regular United States mail at least ten (10) days in advance of the hearing date. When notice by publication is required, such notice shall be published in a newspaper of general circulation in the city at least once, not more than thirty (30), nor less than seven (7) days before the date of the hearing. Where notice to abutters is required, all owners or occupants of property within five hundred (500) feet of such parcel or tract shall be deemed to be abutters, and service shall be made by ordinary mail at least seven (7) days before the date of the hearing. In the case of abutters, the owners and occupants of property listed in the assessor’s records on the last tax date prior thereto, shall be deemed to be the persons to whom notice is to be given. The clerk shall take reasonable measures to notify renters in close proximity.

(c) **Notice requirements not mandatory.** Failure of any person other than the applicant or licensee to receive a notice of the public hearing shall not necessitate another hearing and shall not invalidate any action taken as a result thereof, except as otherwise expressly provided by law. (Code 1968, § 901.10; Ord. No. 231-80, 12-2-80)

Sec. 15-11. **License not to be transferable.**

(a) No license shall be transferred to any person, to any location, or to any other vehicle or device, and no license fee shall be refunded if the licensed activity is ceased prior to the expiration of the license. All purported transfers not in accordance with this section are void. A license shall be deemed the subject of an attempted transfer whenever there is a sale of the business, vehicle or device, or where there is a change in actual ownership interest. Upon any such event, the licensee shall immediately surrender the license to the clerk; except that, in the case of death, bankruptcy or receivership of any licensee, the duly appointed executor or administrator of the deceased licensee or the duly appointed trustee or receiver of the bankrupted licensee or licensee receivership may retain the license and operate under the same for the benefit of the estate with the written permission and approval of the clerk until such time as such operation is no longer needed to benefit the estate. Thereafter, such personal representatives, receivers, or trustees shall either return the license to the clerk or transfer same to any other person, under order of the court having jurisdiction and upon written notice to the clerk. In the interim, between the death of the licensee and the appointment of an executor of administrator, or in cases where no administration of the estate of a deceased licensee is contemplated, the widow or widower or person designated by all of the heirs of the deceased licensee may take over the license upon written notice to the clerk. Duly appointed and qualified guardians and conservators of the estate of a licensee may retain the license of their ward during the term of office upon written notice to the clerk.

(b) In all cases arising out of this section in which the clerk is required to determine the identity or composition of or ownership interests in an applicant or licensee, or to determine whether a transfer of an ownership interest in an applicant or licensee has taken place, he shall look to the substance rather than the form of transactions and any person aggrieved may appeal the clerk’s determination to the city manager.
BUSINESS LICENSES

Sec. 15-12. Fees and expiration dates.

(a) Fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

<table>
<thead>
<tr>
<th>Location in code</th>
<th>Description</th>
<th>Fee</th>
<th>Expiration Date</th>
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</thead>
<tbody>
<tr>
<td>Ch. 4, Art. II</td>
<td>Amusement devices: Pinball machines, per Device</td>
<td>$27.50</td>
<td>June 30</td>
</tr>
<tr>
<td>Ch. 11, Art. II</td>
<td>Food service establishments (FSE): Temporary FSE Mobile FSE Base station (for Mobile FSE) FSE-Food preparation on premises FSE-with beer and wine And take-out FSE-Class A lounge Renewal FSE-State liquor License Class IA: FSE Temporary (bona Fide nonprofit organization) with any Spirituous, vinous, or malt license and special entertainment</td>
<td>25.30</td>
<td>Per event</td>
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<td>82.50</td>
<td>June 30</td>
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<td></td>
<td>Gaming: Beano Games of chance (application fee pursuant to section 1506 only)</td>
<td>27.50</td>
<td>June 30</td>
</tr>
<tr>
<td>Ch. 4, Art. IV</td>
<td>Music, dancing and special entertainment: Entertainment with Dancing Entertainment Without dancing Single dance</td>
<td>27.50</td>
<td>June 30</td>
</tr>
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<td></td>
<td></td>
<td>27.50</td>
<td>June 30</td>
</tr>
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<td></td>
<td></td>
<td>11.00</td>
<td>Per dance</td>
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Sec. 15-12.1. Waiver of fees.

The city council may, in its discretion, waive or reduce any fee required of any nonprofit organization where the council determines that the purpose of the activity or the funds to be raised by the activity are of direct benefit to the citizens of the city.
(Ord. No. 527-82, 5-3-82)

Editor’s note—Ord. No. 527-82, adopted May 3, 1982, added a new § 901.12A to the 1968 Code, which provisions, at the discretion of the editor, have been codified as § 15-12.1 of the Code.

Sec. 15-13. Supplementation of applications.

Whenever a license is in effect, the licensee shall be responsible for notifying the clerk in writing of any material change in facts set forth in the application for any license held from the city within seven (7) days thereafter. Failure to comply with this requirement shall be a violation of this chapter.
(Code 1968, § 901.13; Ord. No. 231-80, 12-22-80)

Sec. 15-14. Violations.

In addition to any action which may be taken by the clerk or the city council with respect to the suspension or revocation of a license, violation of this chapter, or of any licensing provisions of the city governed by this chapter, or of any rule made pursuant thereto shall be a civil violation subject to the penalties of section 1-15.
(Code 1968, § 901.14; Ord. No. 231-80, 12-22-80)
ARTICLE 1 – PURPOSE AND ENABLING LEGISLATION

Sec. 16-1 Purpose
By and through this Chapter, the Town of Long Island declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

Sec. 16-2 Enabling Legislation
The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature—“An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, et seq.).

ARTICLE II – TITLE AND DEFINITIONS

Sec. 16-3 Title
This Ordinance shall be known and may be cited as “the Town of Long Island Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

Sec. 16-4 Definitions
Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

1. Energy saving improvement. “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

   A. Will result in increased energy efficiency and substantially reduced energy use and:

      (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy – Energy Star program or similar energy efficiency standards established or approved by the Trust; or

      (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

   B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.
2. **Municipality.** “Municipality” shall mean the Town of Long Island.

3. **PACE agreement.** “PACE agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of agreement, other than mortgage holders.

4. **PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

5. **PACE district.** “PACE district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

6. **PACE loan.** “PACE” loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. **PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

8. **PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

9. **Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.

10. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

11. **Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

**ARTICLE III – PACE PROGRAM**

1. **Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish
the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.

2. Amendment to PACE program. In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

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

ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration.

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

   i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality’s PACE district;

   ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;

   iii. the Trust, or its agent, will disburse the PACE loan to the property owner;

   iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;

   v. the Trust, or its agent, will be responsible for collection of the PACE assessments;

   vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

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

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

2. Liability of Municipal Officials; Liability of Municipality.

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

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, § 1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.
Chapter 17

DEPUTY SHERIFF AND CONSTABLE

Art. I. In General
Art. II. Offenses Against Public Peace
Art. III. Offenses Against Public Safety
   Division 1. Parking
   Division 2. ATV’s and Golf Cart Registration
   Division 3. Firearms
   Division 4. Fines and Penalties
   Division 5. Towing
Art. IV. Municipal Parking Area
Art. V. Pedestrians

ARTICLE I. IN GENERAL

Sec. 17-1. Constables.

Constables appointed by the Town of Long Island shall be empowered to serve all legal process allowable under state law on behalf of and at the request of the Town of Long Island. A constable’s certificate of appointment shall state any applicable limitations, that he or she is not allowed to carry a weapon, concealed or unconcealed, in the performance of his or her duties and that his/her term shall expire on December thirty-first of the year in which he/she is appointed.

Sec. 17-2. Loitering.

(a) The following definitions shall apply in this section:

(1) All-terrain vehicle (ATV), shall mean a motor-driven, off road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel, or low-pressure tire vehicle; a motorcycle or related two-wheel, three-wheel or belt-driven or “dirt bike;” an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this chapter, “all-terrain vehicle” does not include a snowmobile; airmobile; construction or logging vehicle used in the performance of its common function; a farm or garden vehicle used for farming or gardening purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

(2) Loitering shall mean remaining in essentially one (1) location, seated or standing, and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; and to stand around.
(3) *Public place* shall mean any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public streets, sidewalks, ways, grounds, schools, areas or parks.

(b) It shall be unlawful for any person to loiter either alone and/or in consort with others in a public place in such a manner at to:

(1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;

(2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress and egress therein, thereon, and thereto:

(3) Manifest a purpose to promote, engage or solicit another person to engage in sexual intercourse or a sexual act in return for a pecuniary benefit;

(4) Manifest a purpose to traffic in or furnish what the person knows or believes to be a schedule or counterfeit drug or any hypodermic apparatus.

(c)) When any person causes or commits any of the conditions enumerated in subsection (b) herein, any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

**Sec. 17-3. Panhandling.**

(a) The following definitions shall apply in this section:

(1) “Begging” shall mean the solicitation of money or other valuable consideration without giving consideration in return.

(2) “Loitering” shall have the same meaning as ascribed to it in section 17-2.

(b) It shall be unlawful for any person to loiter either for the purpose of begging or to beg either alone or in consort with others in a public place.
(c) The provisions of this section shall not apply to any organization or society that is organized and operated exclusively for religious, educational, philanthropic, benevolent, fraternal, charitable, or reformatory purposes, not operated for pecuniary profit, where not part of the net earnings of which inures to the benefit of any person, private shareholder or individual and provided that any person conducting such solicitation is duly identified as being the authorized agent of such organization or society.

Sec. 17-4. Handbills.

(a) No person shall throw, cast or cause or permit to be thrown or cast any handbill, circular, card, booklet, placard, paper, or any other object constituting litter, in or upon any street, way or public place; provided, however, it shall not be unlawful for any person to hand out or distribute handbills, or any other thing which is otherwise permitted by law, in any public place to any person willing to accept such handbill or other thing.

(b) No person shall place or attach any handbill, circular, card, booklet or placard on any automobile or other conveyance located in any public street or way, which is unoccupied at the time of such placement or, if occupied, without the consent of the occupant. No person shall place or attach any other object on any automobile or other conveyance located in any public street or way, which is unoccupied at the time of such placement or, if occupied, without the consent of the occupant, if such object could reasonably be expected to constitute litter if removed.

(c) No person shall post or otherwise attach any handbill, circular or paper sign to or upon any street lamppost, hydrant, tree, shrub, tree stake or guard, trash receptacle, utility pole or wire appurtenance, or any light pole, street sign or traffic sign, or upon any other object lawfully located in the street right-of-way. The provisions of this paragraph shall not apply to:

(1) The posting of signs or the placement of objects permitted by Titles 23 or 35 or the Maine Revised Statutes;

(2) To the posting of any handbill, circular or notice upon any bulletin board or other object provided by the town for that purpose.

(d) There shall be a rebuttable presumption that the person whose goods or services are described in any handbill, circular or other paper which was attached, placed or posted in violation of this section attached, placed or posted such handbill, circular or other paper, or knowingly caused the item to be attached, placed or posted in violation of this section.
ARTICLE II. OFFENSES AGAINST PUBLIC PEACE*

Sec. 17-5. Noise generally.

No person shall in, on, or adjacent to any of the streets, ways or public places, make, continue, or cause to be made or continued any loud, unnecessary or unusual noises which shall either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others. The sounding of any horn or signaling device, except as a danger warning; the playing of any radio, musical instrument, phonograph or any other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants and passers-by; the use of any loudspeaker or amplifier for the purpose of commercial advertising or attraction of the public to a specific building, location or business, yelling, shouting, hooting, whistling, or singing shall be considered to be loud, disturbing, and unnecessary noises and a violation of this section but such enumeration shall not be deemed exclusive.

Sec. 17-6. Construction activities.

(a) No person shall engage in construction activities between the hours of 9:00 p.m. and 7:00 a.m., of the following day within five hundred (500) feet of any building used for residential purposes.

(b) Construction activities shall include, but not be limited to, the following:

1. The use or operation of power or heavy equipment in connection with road or street reconstruction or repair;

2. The use or operation of power or heavy equipment in connection with the installation or repair of utility lines, pipes, wires or cables;

3. The use or operation of power or heavy equipment in connection with the construction of buildings, including specifically excavation for foundation or landscaping work of any kind;

4. The renovation, repair, remodeling or demolition of any existing building or structure.

(c) This section shall not apply in the following situations:

1. Emergency repair work on any utility line, pipe, wire or cable required to restore normal utility service;

2. Situations where the public works authority determines that the construction activity is of a unique character which cannot reasonably be completed or performed during the permitted hours and which is not of a recurring nature, provided that prior to engaging in such activity the contractor or his representative
gives notice of the time and scope of such proposed activity, the notice to be
given in a manner approved by the public works authority.

Sec. 17-7. Noise from ships, vessels, and barges.

(a) Between the hours of 9:00 p.m. and 7:00 a.m. the following day, no person on
a ship, vessel or barge shall engage in any commercial or industrial activity which causes
disturbing noises to the adjacent shorelines.

(b) Sec. 17-7 (a) shall not apply to local commercial fishing operations.

*State law reference—Offenses against public order, 17-A M.R.S.A. § 501 et seq.

ARTICLE III. OFFENSES AGAINST PUBLIC SAFETY*

DIVISION 1. PARKING

Sec. 17-8. Parking near stores and wharf. (Amended June 2, 2011)

There shall be no parking on the following sections of the waterside of Island
Avenue: Between the corner of Garfield Street and Wharf Street, From Ponces Landing
to the west end of the condominium complex, is a fire lane with no parking against the
planters except for a five (5) minute loading/unloading. Also from the west end of the
condominium complex to the southwest end of Long Island Store, parking shall not
exceed one (1) hour; except for postal workers engaged in official business; from the
southwest corner of Long Island Store to the large maple tree west of the gasoline pump,
except to procure fuel; from the large maple tree to the east end of the guard rail above
front beach for periods which exceed one (1) hour.

There shall be no parking on the southeast side of Island Avenue between the
corner of Garfield Street and the corner of Beach Avenue for a period which exceeds one
(1) hour in duration between the hours of 8:00AM-5:00PM. There shall be no parking on
the southeast side of Island Avenue from the corner of Beach Avenue and running
westward to the road for the Ball field next to the Griffin property. (Amended April 4,
2013)

There shall be no parking on the southwest side of Garfield Street from the
intersection with Island Avenue to the intersection of Garfield Street and Beach Avenue.

There shall be no parking which exceeds two (2) hours on the northeast side of
Garfield Street from Island Avenue southeast to corner of Norton and Wood property.

Longer term parking is available at the marked area to the west of Town Hall.

Abandoned vehicles will be returned to property of last known owner.
A temporary permit may be issued by the constable or deputy sheriff for disability or other reasonable cause to waive any of the above parking provisions.

**Sec. 17-9. Parking on state-owned ferry wharf.**

There shall be no vehicles parked or entering the state wharf or approach to the wharf while rescue or other emergency vehicles/vessels are on or in need of use of said wharf. Those already on the wharf should move immediately off the wharf when emergency vehicles or personnel signal or approach with lights, sirens, or other such devices in use.

**Sec. 17-10. Interference with snow removal.**

No vehicle shall be parked at any time on any public street or way so as to interfere with or hinder the removal of snow from the street or way by the town by, plowing, loading, and hauling, and any person parking a vehicle in violation of this ordinance shall be removed by the town at owner’s expense.

*State law reference—Offenses against public order, 17-A M.R.S.A. § 501 et seq.*

**DIVISION 2. ATV’S AND GOLF CART REGISTRATION**

**Sec. 17-11. Operation of an ATV on publicly-owned property.**

(a) No person shall operate an all-terrain vehicle on any publicly owned property within the town except as specifically provided in subsections (b) or (c).

(b) An all-terrain vehicle may be operated on specifically designated publicly owned streets.

(c) An All-terrain vehicle may only be operated on publicly owned property/streets by licensed drivers with proof of insurance with the vehicle.

(Sec. 17-11 amended May 13, 2006)

**Sec. 17-12. Operation on private property.**

(a) Any person operating an all-terrain vehicle upon the land of another shall stop and identify himself and produce the state registration certificate required pursuant to 12 M.R.S.A. section 7854 upon the request of the land owner, his duly authorized representative, constable, or deputy sheriff.

(b) No person shall operate an all-terrain vehicle on the land of another after having been forbidden to do so by the owner thereof, the owner’s agent, constable, or
deputy sheriff, either personally or by appropriate notices posted conspicuously on that property.

(c) Impoundment or fine.


The operation of golf carts shall be permitted on town streets if in compliance with the following requirements:

(1) The operator must possess a valid license to operate a motor vehicle; and are required to show evidence of insurance bill of sale and have original (new) purchase price at time of registration.  *(Amended May 12, 2007)*

(2) Such golf carts shall be operated only in daylight, not earlier than one-half hour before sunrise and not later than one-half hour after sundown; unless equipped with and utilizing suitable headlights and taillights as determined by the sheriff’s department; shall keep to the extreme right of the roadway; shall not exceed a speed of ten (10) miles per hour; and shall obey all traffic laws applicable to motor vehicles;

(3) Each golf cart shall be equipped with an auditory warning device, a visual safety flag on a whip antenna of at least six (6) feet in height; slow vehicle markings; and display a sticker on the cart showing annual registration with the tax collector as an island vehicle.  *(Amended May 4, 2002)*

DIVISION 3. FIREARMS

Sec. 17-14. Firearms-Shooting prohibited; exception.

No person shall shoot with or use a bow and arrow, BB gun, air gun of any kind, gas pellet gun of any kind, sling shot, a firearm of any kind or description or any other such weapon within the town limits, except in the performance of official duties, at authorized events (e.g. paint pellet event) or ranges, or in self defense. This section shall not apply to those temporarily authorized to participate in state controlled deer-hunts when deemed necessary by vote of the selectmen.

Sec. 17-15. Firearms-Carrying at nighttime prohibited; exception.

(a) No person shall have in his possession in or on any street, way, sidewalk, park or other public place, or in any motor vehicle on or in any street, way, sidewalk, park, or other public place between the time of sunset of any day and sunrise of the following day any loaded BB gun, air gun of any kind, firearm of any kind or description or any other such weapon.
(b) This section shall not apply to any law enforcement official in the performance of his or her official duties or to any person defending himself or herself or his or her property.

DIVISION 4. FINES AND PENALTIES

Sec. 17-16. Penalties for parking violations.

(a) Penalties for violation of Sec. 17-8 – 17-9;
   (i) First Offense for violations – Warning.
   (ii) Second Offense for violations – $20.00.
   (iii) Additional Offenses for same violations in consecutive days – $5.00 per day – vehicles violating these regulations three or more times shall be temporarily incapacitated through the application of a parking boot or towed to a designated impoundment area.

Any fine hereunder must be paid before the vehicle is released from a traffic boot or impoundment. Any towing impoundment or storage fees shall be the responsibility of the vehicle’s owner and must also be paid before the vehicle will be released from the Town or its agents’ impoundment facilities.

(b) Penalties for Violation of Section 17-10.
   (i) First Offense -- $100
   (ii) Second Offense and additional Offenses -- $10.00 for each day or part of the day that the vehicle remains in violation. The Town may also tow and impound or arrange to tow and impound any vehicle that interferes with or hinders snow removal.

(c) Penalties for violation of Section 17-15.
   (i) The penalties shall be as set out in Town of Long Island Code of Ordinances, Chapter 1, Section 1-15.

Amended December 3, 2009

Sec. 17-17. Drivers to remain in vehicle.

Drivers of taxicabs or public vehicles shall remain in the driver’s seat while the vehicle is occupying a taxicab stand.

Sec. 17-170. Reserved.
DIVISION 5. TOWING

Sec. 17-171. Applicability.

Any vehicle which has accumulated three (3) or more notices of violation of any parking regulation or regulations made pursuant to this chapter issued after May 21, 1994, for which there has been neither payment of waiver fees nor issuance of court process and which is then parked in violation of any such provision may, at the option of any Sheriff or Constable or other officer authorized to enforce the parking regulations of the town, be immobilized in place or may be removed and stored pursuant to the provisions of Article II of this chapter until all waiver fees established pursuant to 30 M.R.S.A. § 2151 for all such outstanding notices of violations and also the charges authorized by Article II of this chapter have been paid or until the requirements of section 17-173(2) or (3) have been met. If impoundment equal to that of a daytime tow shall be charged and paid prior to such release.

Sec. 17-172. Procedure for removal; notice to owner.

The Sheriff or Constable requesting removal of a vehicle under this division shall at the time of such removal notify the dispatcher of the intended storage location of the subject motor vehicle. Such information shall be recorded by the dispatcher for the use of the Sheriff or Town Clerk. The Town Clerk shall notify by registered mail the registered owner of such vehicle within five (5) business days of the impoundment thereof, the storage location of such vehicle and the requirements for release as set forth in section 17-173.

Sec. 17-173. Release of vehicles.

Any person having custody of a motor vehicle pursuant to the provisions of this chapter or having the means to release such immobilized vehicle shall not release it until the individual requesting its release presents satisfactory evidence of his or her right to possession and signs a receipt therefore, and:

Sec. 17-18 Reserved
ARTICLE IV. MUNICIPAL PARKING AREA
(Original Policy Adopted By Selectmen April 4, 2006 – Effective June 1, 2006)
Ordinance formalized by the authority of the Board of Selectmen June 4, 2009

1. **Requirement to Display a Valid Parking Permit.** All vehicles parked in any Town of Long Island Municipal Parking lots must display a valid Parking Permit.

2. **Parking Permits.** Parking Permits will be issued as stickers and must be permanently affixed to the driver side lower corner of the vehicle windshield. Each vehicle must have a valid Parking Permit before parking in any municipal lot. Parking Permits are valid for a one-year period commencing on the date the Parking Permit was purchased.

3. **Permit Fees.** Vehicles for which owners have paid current excise tax on valid registration to the Town of Long Island are entitled to a free Parking Permit for the vehicle. Vehicles for which owners have not paid excise tax to the Town of Long Island shall be required to show current registration and pay $75.00 per year or $20.00 per month for a Parking Permit.

4. **Violations and Fines.** Vehicles parked in any Town of Long Island Municipal Parking Lot not displaying a valid Parking Permit shall be fined $20.00 per ticket. Vehicles violating these regulations three or more times shall be temporarily incapacitated through the application of a parking boot or towed to a designated impoundment area. To secure the release of booted or impounded vehicles, owners must first pay the Town in full all outstanding fines and/or towing charges. (August 6, 2009)

5. **Availability of Town Parking Areas.** Parking areas within Town lots are limited and parking for vehicles with Parking Permits is on a first come, first served basis. The purchase of Parking Permit does not guarantee the holder will necessarily find that spots are available.

6. **ATV’s.** Due to the State of Maine not requiring payment of excise tax on ATV’s, owners are allowed free parking permits for ATV’s that register with the Town of Long Island and a $75.00 fee per year or $20.00 per month for those ATV’s registered elsewhere to be consistent with the existing Policy dated April 4, 2006. (May 13, 2006)

7. All Parking Permit Violations, issued from June 1, 2006, must be paid before receiving a Parking Permit for any vehicle. (June 6, 2013)

**PARKING IS PROHIBITED ON ISLAND AVENUE FROM GARFIELD ST. EASTWARDLY, TO BOSTON SAND & GRAVEL**
ARTICLE V. PEDESTRIANS

Sec. 17-191. When pedestrian has right-of-way.

The driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing.
Chapter 18

TAXES

Article 1 – Vehicle Excise Tax Exemption for Active Duty Military Personnel

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.
Chapter 25

STREET NAMING AND NUMBERING ORDINANCE

1. Purpose.

The purpose of this Ordinance is to ensure the easy and rapid location of properties by law enforcement, fire, rescue and emergency medical services personnel in the Town of Long Island.

2. 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.

3. Administration.

This Ordinance shall be administered by the Board of Selectmen which is authorized to and shall assign or cause to be assigned road names and numbers to all properties, both on existing roads and unaccepted or proposed roads, in accordance with the criteria established in Sections 4 and 5 of this Ordinance. The Board of Selectmen shall also be responsible for maintaining or causing to be maintained the following official records:

a. The Long Island Municipal Map for official use showing road names and numbers.

b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.

c. An alphabetical list of all roads with the property owners listed in order of their assigned numbers.


All roads in Long Island that serve two or more properties shall be named regardless of whether the ownership is public or private. A “road” refers to any 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 Long Island shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:
a. Similar names – no two roads shall have the same or similar sounding names (e.g. Beach Ave. and Beach Cove Road, Highland Avenue and Island Avenue). The Board of Selectmen is authorized to eliminate or cause to be eliminated any duplicate or similar sounding names existing at the time this ordinance is enacted.

b. Each road shall have the same name throughout its entire length.

5. **Numbering System.**

Numbers shall be assigned every twenty five (25) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. The following criteria shall govern the numbering system:

a. All number origins shall begin from the West end of Long Island at the intersection of Fern Avenue and Island Avenue near Fowler’s Beach. Number origins on crossroads shall begin at intersections with through streets, Island Ave., Fern Ave., Beach Ave. and heading away from these intersections.

b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door can not be seen from the road, the number shall be that of the interval falling closes to the driveway or walkway to said structure.

c. Any structure with more than one living unit shall have a separate number for each occupancy. (Apartments will have one road number with an apartment number such as 22 Beach Avenue, Apt. #3.)

6. **Compliance.**

All owners of structures shall, on or after the effective date of this Ordinance, display and maintain in a conspicuous place of said structure, the assigned numbers in the following manner:

a. Where the structure or residence is within fifty (5) feet of the road, the assigned number shall be visibly displayed near the front door or entry of the structure. Numbers shall be a minimum of 4” high.

b. Where the structure or residence is over fifty (50) feet from the road, the assigned number shall be visibly displayed at the road on a post, fence, wall, or mail box adjacent to the access drive or walkway to the residence or structure. Numbers shall be a minimum of 3” high.
c. Size and color of numbers shall be approved by the Board of Selectmen and shall be located so as to be visible from the road.

d. All property owners shall remove any other number previously displayed (on mailboxes etc.) which will cause confusion with the number assigned in accordance with this Ordinance.

e. All residents are requested to post the assigned number next to their telephone for emergency reference.

7. New Developments and Subdivisions.

Roads and numbering in all new construction and subdivisions shall be named and numbered in accordance with the provisions of this Ordinance.

When a new residence is constructed, it shall be the duty of the owner to procure an assigned number from the Code Officer at the time the building permit is issued.

8. Effective Date.

This Ordinance shall become effective for the purposes of its implementation on the date of its enactment. It shall become fully effective only after all of its provisions have been fulfilled including notification to each property owner and the Post Office by mail to each new address. It shall be the duty of the property owner to comply with the provisions of this Ordinance, including the posting of assigned numbers, within thirty (30) days following notification. On new structures, numbering must be installed before final inspection or occupancy, whichever comes first.


The Board of Selectmen may designate the Code Enforcement Officer, Fire Chief, or Town Constable to act as its agent with regard to the implementation and enforcement of this Ordinance. Violations of any provision of this Ordinance may be punishable by a fine not to exceed One Hundred ($100.00) Dollars.
1. Purpose.

The purpose of this ordinance is to ensure that roads and streets are developed and maintained in a manner consistent with road construction standards and in a manner that ensures that all new public ways and existing public ways will best serve the community and public interests, including, but not limited to public safety, fire, rescue, traffic and parking needs, in a manner that minimizes adverse environmental or aesthetic impact, and in a manner that ensures that the costs of development, maintenance and upkeep of any roads or streets incurred by the Town of Long Island are minimized to the greatest extent possible.

2. Definitions.

The terms road or street as used herein shall mean all roads, streets, avenues, or other public ways established or maintained under public authority or public or private ways dedicated to the use of the public as are included in the official records of the Town of Long Island.

3. Standards.

All new roads or streets must be laid out and constructed in accordance with Road Construction Standards to be adopted by the Town or as otherwise approved by the Planning Board.

4. Transition provision.

Pending adoption by the Town of Road Construction Standards, all road construction shall be governed by the standards set forth by the Maine Department of Transportation in the Department's publication entitled "Standard Specifications" December 2002.

5. All development proposals submitted for review and approval under Chapter 14 of Articles X or XI of the Town of Long Island Code of Ordinances that include development or upgrades of any road or street shall also be subject to the requirements of this Chapter.