

2018

# Town of Chebeague Island Maine Ordinances

Chebeague Island, Me.

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**BOARD OF SELECTMEN  
ORDINANCE**

**of the Town of Chebeague Island  
MAINE**

Adopted by the Town Meeting: *June 6, 2015*  
Effective: *June 6, 2015*

Attest:

*Gloria J Brown*  
\_\_\_\_\_  
Town Clerk

Seal:

Section 101. NUMBER OF SELECTMEN; ELECTION; TERM

The administration of all fiscal and prudential affairs of the town, with the government thereof, except as otherwise provided by statute or local ordinance, shall be vested in one body of five members, which shall constitute and be called the Board of Selectmen. The Board of Selectmen shall be elected at large by paper ballot at the Annual Town Meeting to serve one to three year terms initially and staggered, three year terms thereafter. Elections shall be determined by majority vote. Length of initial terms shall be determined as follows: the two nominees receiving the greatest number of votes shall each serve for three years; the two nominees receiving the next greatest number of votes shall each serve two years; the fifth receiving the next greatest number of votes shall serve one year. All members of the Board shall be residents of the Town of Chebeague Island, and shall be sworn in the manner hereinafter prescribed. Each member shall serve until a successor is elected and qualified.

Section 102. COMPENSATION

Selectmen shall receive \$50.00 for each Board meeting attended, not to exceed in the aggregate \$1,200 per year in full for their services, and shall be paid quarterly. Such compensation shall be changed by ordinance, but no such ordinance increasing the salary of members of the Board of Selectmen shall take effect during the then-current municipal year.

Section 103. RECALL

Upon written request from one or more qualified voters of the town, the Town Clerk or Deputy Town Clerk shall issue appropriate, blank petition forms for the commencement of proceedings to recall a Selectman. All copies of the petition shall contain the name of the person or persons who obtained the petition. The petition shall state the name and office, or offices, of the person whose removal is being sought and a statement of general or detailed reasons for seeking removal. Each petition shall be limited to the recall of a single individual. All pages of a single petition shall be filed as one document. Each page of the petition shall provide a space for the voter's signature, address and printed name.

Any petition issued by the Clerk must be returned and filed with the Clerk no later than thirty (30) days from the date of issuance. The petition shall be signed in the presence of a Notary Public by the individual or individuals who requested the petition. Within ten (10) days after the circulation period ends, the Clerk shall certify to the Board of Selectmen whether the petition has been signed by not less than the greater of 10 registered voters of the town or ten percent (10%) of voters of the municipality in the last gubernatorial election as provided in statutes. Should less than the required registered voters of the town sign the petition, the petition will be filed in the clerk's office and the voter(s) who filed the petition will be notified. The petition shall have no further force or effect and no new petition for the recall of the same individual can be initiated until one hundred eighty (180) days from the filing of the previous petition.

Should the required or more of the registered voters of the town sign the petition, the Board of Selectmen shall, upon receipt of certification, call a special election on the question of recall to be held within thirty (30) days of the certification. Should the Board of Selectmen fail or refuse to order an election as herein provided, such election may be called by a Notary Public in the county on written petition of a number of registered voters equal to the greater of 10 registered voters of

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the town or ten percent (10%) of voters of the municipality in the last gubernatorial election as provided in statutes. The Board member or other elected official shall be recalled when a majority of those voting thereon have voted in the affirmative. Any Selectman or other elected town official against whom the recall proceedings have been initiated may continue to hold office until recalled. A recalled Selectman or other elected town official may not be appointed to serve the balance of the unexpired term and may not run as a candidate in a special or regular election to fill the balance of the unexpired term. A recalled Selectman or other elected town official may seek election to a full term to the same or any other office at any election after the date of recall.

A recall petition may be withdrawn at any time prior to the 15<sup>th</sup> day preceding the day scheduled for a vote of the town by filing with the Town Clerk a written request for withdrawal signed by the majority of persons who obtained the petition. A request for recall of the same elected official may not be accepted by the Clerk until one hundred eighty (180) days after the expiration of the previous filing period.

#### Section 104.           REGULAR AND SPECIAL MEETINGS

The Board of Selectmen shall establish a regular place and time for holding its regular meetings and shall meet at least monthly. The Board shall also provide a method for calling special meetings in accordance with statutes and ordinances.

During each regular and special meeting there shall be opportunity for public discussion upon each item on the agenda. The Board shall allow the public to film or tape record public meetings when this is conducted in a non-disruptive manner. The agenda for each Board meeting shall be posted and distributed at least three days in advance of the meeting and earlier if required by statutes or local ordinances in such public places and private establishments as Town Hall, Chebeague Transportation Company commuter boat, Doughty's Island Market bulletin board, town website, Chebeague Island Library, and such other locations as the Board shall determine.

The Board may call an emergency meeting to deal with a specific issue requiring prompt action and the Board shall, at a minimum whenever practical, notify local media representatives of the meeting to include time, location, and the general topic(s) to be discussed. Where feasible, the Board shall also post and distribute notice of the meeting to include the time, date, location, and general topic(s) to be discussed in such public places and private establishments as set by this article/ordinance/document and at least 24 hours in advance of the meeting.

#### Section 105.           RULES OF PROCEDURE: JOURNAL

The Board of Selectmen shall determine its own rules and order of business except where otherwise provided by statute or ordinance. It shall keep a written record of its public proceedings and the record shall be open to public inspection. The record approved by the majority of Board members shall be published on the town website and made available at the Town Hall and other public and private establishments as the Board shall determine. The record shall include the date, time, and location of the meeting, the municipal officers in attendance, the issues discussed, the nature of the issues, the nature of any resolution of the issues, the wording of any motions passed by vote, names of officials voting for and against and abstaining, motions to go into executive session and including the nature of business to be discussed in executive session and citation of

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one or more sources of statutory or other authority to justify the executive session.

Section 106.           PRESIDING OFFICER

The Board of Selectmen shall elect from among its members a Chairman and Vice Chairman, each of whom shall serve at the pleasure of the Board. The Chairman shall preside at meetings of the Board, shall be entitled to vote and shall be recognized as head of the town government for all ceremonial purposes, and by the Governor for purposes of military law, and shall be responsible for agenda preparation and distribution for regular and special Board meetings and for calling town meetings. The Vice Chairman shall act as Chairman during the absence or disability of the Chairman.

Section 107.           QUORUM

A majority of the Board of Selectmen shall constitute a quorum for the transaction of business. Board members must be physically present in order to vote. At least three (3) votes shall be registered in favor of passage of any motion, order, or resolution before the Board. A smaller number may adjourn from time to time or may compel attendance of absent members by subpoena. At least twenty-four (24) hours notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

Section 108.           QUALIFICATIONS: VACANCIES

- (A) Selectmen shall be registered voters of the Town of Chebeague Island.
  - (B) **Holding other office:** Except where clearly authorized by law or pursuant to an agreement under the Interlocal Cooperation Act, no Selectman shall hold other town elected office or employment, and no Selectman shall serve on a Board-appointed committee, except as a non-voting ex-officio member, during the term for which he or she was elected to the Board. With the exception of the Fire Chief and Rescue Chief, membership in the Chebeague Fire and Rescue Department, alone, shall not be grounds for disqualification from holding office as a Selectman.
    - 1) No current Selectman may apply for a job with the Town without first resigning and submitting a written application for the position.
    - 2) No Selectman, during the term for which he has been elected and for one year thereafter may be employed by the Town for any job which was created or the compensation of which was increased by the action of the Selectmen during the Selectman's term.
    - 3) Any Selectman applying for a job with the Town will be considered with all other applicants, and must be given no special preference or privileges.
    - 4) The Board shall select the best qualified candidate after posting the position.
  - (C) **Forfeiture of Office:** A Selectman shall forfeit office if he or she:
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- 1) Lacks at any time during his or her term of office any qualification the office prescribed by law or ordinance.
  - 2) Is convicted of a crime or offense which is reasonably related to an inability to serve as a Selectman, or
  - 3) Fails to attend four consecutive regular meetings of the Board without being excused by the Board.
- (D) **Vacancies.** The office of Selectman shall become vacant upon non-acceptance, resignation, abandonment, death, recall or removal from office in any manner authorized by law, forfeiture of office, or permanent physical or mental disability causing inability to perform required duties after reasonable accommodation has been made by the town pursuant to state and federal law.
- (E) **Filling of Vacancies.** If a seat on the Board of Selectmen becomes vacant more than three (3) months prior to the next annual town meeting, the Board shall call a special election to fill the unexpired term to be held within sixty (60) days from the date that the vacancy occurred. If a seat on the Board becomes vacant less than three (3) months prior to the next regular election, the Board shall, at its option, either:
- 1) Call a special election to fill the unexpired term to be held within sixty (60) days from the date that the vacancy occurred; or
- (F) The Board of Selectmen is authorized to act with its full powers and authority during any time that vacancies exist on the Board, provided that it fulfills the quorum requirements of Section 107.

#### Section 109. ENUMERATION OF POWERS

The Board of Selectmen shall have all executive and quasi-judicial powers and duties as authorized by constitutional provisions, statutes, and articles/ordinances/documents set by town meetings. The Board of Selectmen shall have power to:

- (A) Appoint the Town Administrator for an initial term not to exceed three years, reappoint the Town Administrator for additional terms not to exceed three years, and remove the Town Administrator prior to the expiration of his term after due process and for cause by a majority of its members. At least thirty (30) days before such removal shall become effective, the Board shall, by a majority vote of its members, adopt a preliminary resolution stating the reasons for the Administrator's removal. The Administrator may reply in writing and may request a hearing. After such hearing if one be requested, and after full consideration, the Board by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution, the Board may suspend the Administrator from duty, and may continue to pay the regular salary of the Administrator during the period of suspension. If the Board votes to remove the Town Administrator, it shall pay the Administrator any unpaid balance of his salary for the current calendar month. The Board shall review at least annually
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the performance of the Town Administrator and present said review to the Town Administrator in executive session. During the Town Administrator's temporary absence or disability, the Board may appoint another qualified person to perform the duties of the Administrator until the Administrator returns.

- (B) Appoint the Town Attorney and the Town Auditor to serve at the will of the Board;
  - (C) Appoint the Board of Assessment Review, the Board of Adjustment and Appeals, the Planning Board, and all statutory and advisory boards to serve such terms of office and subject to removal under such conditions as may be established by ordinance or statute;
  - (D) Appoint the Town Assessor for an initial term not to exceed three years, reappoint the Assessor for additional terms not to exceed three years, and remove after due process and for cause by a majority of Board members;
  - (E) Approve/reject appointments made by Town Administrator or temporary Town Administrator or, in absence of thereof, appoint municipal positions as set by statute or authorized by ordinance;
  - (F) Approve/reject appointments made by Town Clerk or Deputy Town Clerk or, in absence thereof, appoint Ballot Clerks;
  - (G) Make, enact, alter and repeal ordinances related to the regulation of pedestrian traffic, parking, taxis and other vehicles for hire, general assistance, keeping convenient channels open for the passage of vessels in local harbors, a drug and alcohol testing policy for employees required to have commercial drivers license for their employment-related duties, and other specific purposes as set forth by statute;
  - (H) Make investigations into the affairs of the town and the conduct of any town department, office or agency;
  - (I) Provide for the consolidation and distribution of an annual proposed municipal and school budget;
  - (J) Administer the municipal budget once adopted at Town Meeting; and approve or reject disbursements for the municipal and school budget in accordance with appropriation articles;
  - (K) Provide for an annual audit of the Town of Chebeague Island's financial statements, books, and accounts;
  - (L) Prepare proposed ordinances, accept voter petition articles and ordinances validated by the Town Clerk, and prepare warrants for Town Meeting;
  - (M) Enforce the Town of Chebeague Island Code of Ordinances;
  - (N) Enter into litigation, decide to go to trial or settle, and whether to appeal if the Town loses
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when funding is authorized by or when necessary, pending approval at Town Meeting;

- (O) If the Town Clerk, Tax Collector or Treasurer fail to do so, the Selectmen may appoint a Deputy Town Clerk, Deputy Tax Collector, and Deputy Treasurer to serve during incumbents' absences;
- (P) Perform fact findings, attend hearings, and prepare written decisions when any municipal permittee, licensee, or other member of the public claims to be aggrieved and files certain appeals;
- (Q) Cause the Town of Chebeague Island to join and fulfill any membership responsibilities for any organization the Town decides to join at Town Meeting;
- (R) Represent and advocate for the Town of Chebeague Island before the Legislature and Executive branches of state government; and any other governmental body whose action or inaction may impact the Town.
- (S) Create and maintain a fee schedule for all fees created specifically by municipal ordinance or otherwise allowed or required by State Law. When a fee set explicitly in a municipal ordinance conflicts with one set in the fee schedule then the fee schedule shall take priority. The schedule shall be reviewed by the Board of Selectmen annually and must be signed by a majority of the Board. Fees must reflect the town's estimated cost of administering and enforcing the various ordinances.
- (T) Identify, assess, and prioritize the Town's long-term capital needs, research future needs; develop long-term capital expenditure plans for Town facilities, infrastructure, and land in cooperation with other Town boards, committees, employees, and members of the public; and publicly review and amend the Capital Plan on an annual basis.

Section 110. SEVERABILITY

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

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## **Building Codes; Adoption and Enforcement Ordinance**

**of the Town of Chebeague Island, Maine**

Adopted by the Town Meeting:  
Effective: November 19, 2011

Amended: April 7, 2018

Attest:   
Town Clerk

### **SECTION 101. TITLE**

This ordinance shall be known and may be cited as the "Building Codes; Adoption and Enforcement Ordinance of the Town of Chebeague Island" hereinafter referred to as "this Ordinance".

### **SECTION 102. PURPOSE**

The purpose of this Ordinance is to protect life and property from hazards incident to improper construction, installation, modification, or use of structures and appliances as specified in Section 103 of this Ordinance. This Ordinance is adopted pursuant to 30-A M.R.S.A. §3009 and 10 M.R.S.A. §9724.

### **SECTION 103. SCOPE OF ORDINANCE**

This Ordinance shall apply to the construction, installation, modification, or use of residential, commercial, and public structures, and any associated electrical equipment, plumbing, appliances designed or used to burn solid fuel (wood, coal, or any combustible solid matter) for the purpose of heating or cooking, and subsurface wastewater disposal structures or equipment as covered in the codes and standards referred to in Sections 104 — 111 of this Ordinance.

### **SECTION 104. ADOPTION OF THE MAINE UNIFORM BUILDING AND ENERGY CODE.**

Pursuant to Title 10 M.R.S.A § 9724 (1-A), The *Maine Uniform Building and Energy Code* is adopted by the Town of Chebeague Island to establish regulations governing the construction and repair of residential, commercial and public structures. The Code Enforcement Officer shall serve as the building official as defined in title 25 M.R.S.A § 2371 and shall be responsible for issuing building permits and certificates of occupancy.

### **SECTION 105. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE.**

The National Fire Protection Association's *Life Safety Code* (2015) as adopted and amended by the State of Maine is adopted by the Town of Chebeague Island to establish the construction, protection, and occupancy requirements needed to minimize threat to life from fire and related dangers including smoke, fumes, or panic.

### **SECTION 106. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION SOLID FUEL SAFETY STANDARDS.**

The *National Fire Protection Association's (NFPA) Standard 211, "Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances," (2006 Edition)* is adopted by the Town of Chebeague Island. An installation of solid fuel burning appliances

shall be deemed proper when it conforms to the standards contained therein. These standards may be superseded by manufacturers' specifications for installation of their UL-listed appliances.

**SECTION 107. ADOPTION OF THE U S ENVIRONMENTAL PROTECTION AGENCY'S OUTDOOR WOOD-FIRED BOILER STANDARDS.**

*The United States Environmental Protection Agency's Outdoor Wood-fired Hydronic Heater (OWHH) Phase II Program (released October 23, 2008),* as adopted by the Maine Department of Environmental Protection, is adopted by the Town of Chebeague Island. The installation and usage of outdoor solid fuel burning furnaces or boilers used for heating shall be deemed proper when it conforms to the standards contained therein,

**SECTION 108. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION NATIONAL ELECTRICAL CODE.**

The National Fire Protection Association's *National Electrical Code* (2017) as adopted and amended by the State of Maine is adopted by the Town of Chebeague Island to regulate the installation of electrical conductors, equipment and raceways, signaling and communications conductors, equipment and raceways, and optical fiber cables and raceways in all property, buildings, and structures. These codes cover all installations used by the electric utility that are not an integral part of a generating plant, substation or control center.

**SECTION 109. ADOPTION OF THE MAINE STATE INTERNAL PLUMBING CODE.**

The *Maine State Internal Plumbing Code* is adopted by the Town of Chebeague Island to regulate plumbing on the island, and all plumbing installed on the island and all permits issued shall conform to the rules and regulations of the state department of human services regarding plumbing issued under authority conferred by state law.

**SECTION 110. ADOPTION OF THE MAINE SUBSURFACE WASTE WATER DISPOSAL RULES.**

The *Maine Subsurface Waste Water Disposal Rules* are adopted by the Town of Chebeague Island to establish the minimum design criteria for subsurface wastewater disposal to assure environmental sanitation and safety.

**SECTION 111. SUCCESSOR CODES, REGULATIONS, AND STANDARDS**

Town of Chebeague Island Code of Ordinances  
Chapter 15 — Buildings  
Article I — Building Codes

Codes, standards, and regulations specified in Sections 104 — 110 shall remain in effect until such time as they are replaced by their sponsoring agencies or organizations with revised versions, at which time the Town of Chebeague Island shall be considered to have adopted said revisions unless it specifically stipulates otherwise by amending this ordinance.

**SECTION 201. PERMITS AND FEES**

Any person intending to construct, install, or modify structures, appliances, or other entities covered under the codes and standards listed in Sections 104 - 111 of this ordinance must obtain the necessary permit form from the Town Clerk and submit it to the Code Enforcement Officer for approval before construction, installation, or modification commences. A satisfactory inspection that requirements have been met shall be completed before any structure or appliance is put into use.

Permit fees, if any, are as set forth in the Board of Selectmen Schedule of Fees in accordance with Ch. 11 Art. II Sec. 109 (S) of the Town Code of Ordinances.

**SECTION 202. INSPECTION AND ENFORCEMENT**

The Code Enforcement Officer of the Town of Chebeague Island shall have responsibility for conducting inspections and enforcing the Town of Chebeague Island Building, Energy Fire Prevention, Electrical, Plumbing, Solid Fuel Safety, Property Maintenance, and Wastewater Disposal codes, regulations, and standards as adopted pursuant to Sections 104 — 111 of this Ordinance.

Appeal Procedure: Any person with standing or equity aggrieved by a decision of the Code Enforcement Officer, may appeal such decision to the Board of Adjustment and Appeals within thirty (30) days inclusive of the date of such decision.

**SECTION 203. ADMINISTRATION**

Written and/or electronic records of permits, inspections, and approvals shall be maintained by the Town Clerk.

**SECTION 204. AMENDMENTS**

This Ordinance may be amended by Town Meeting.

**SECTION 205. SEVERABILITY**

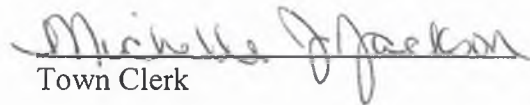
Should any portion of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions shall remain in full force and effect.

# CEMETERY ORDINANCE

of the Town of Chebeague Island  
MAINE

Adopted by the Town Meeting:  
Effective: June 9, 2013

Attest:

  
Town Clerk

Seal:

Section 116. TITLE

This Ordinance shall be known as and may be cited as the “Cemetery Ordinance for the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to establish a Cemetery Committee under Title 13, M.R.S.A. §1301, and to create a framework for regulating and managing the use and operation of the Chebeague Cemetery. This Ordinance is adopted pursuant to 30-A M.R.S.A. §3001.

SECTION 103. DEFINITIONS

“Burial” refers to the remains of a single person, whether in a casket or in cremated form.

A “grave” or “gravesite” is a parcel of cemetery land suitable for the burial of a single full casket. Some gravesites are specifically for cremations, and are smaller.

A cemetery “lot” is a parcel of cemetery land that may contain a block of graves, sometimes, but not always, owned by a single family.

SECTION 104. THE CEMETERY COMMITTEE

1. Appointment, qualifications, tenure, and vacancies on the Cemetery Committee

A. The Cemetery Committee will have between five (5) and seven (7) members appointed by the Board of Selectmen. They shall serve without compensation.

B. The Superintendent of the Cemetery will serve as a non-voting, ex-officio member of the Committee. The Board of Selectmen may also appoint other staff of the Town, such as the staff member who maintains the Cemetery accounts, as non-voting ex-officio members of the Committee.

C. Members shall be legal residents or property owners of the Town of Chebeague Island. Property ownership in this case includes ownership of a cemetery grave or lot.

D. The term of office of each regular member shall be three years. The terms of office shall be staggered, with the terms of 2 (3, if the Committee has 7 members) members expiring in one year; the term of one (2, if the Committee has 7 members) member expiring in the next year; and the terms of two members expiring in the third year.

E. The Committee may create subcommittees to work on particular issues. These subcommittees may include members who are not members of the Cemetery Committee.

F. Vacancies may occur by reason of resignation, death, or removal from the Town. The Board of Selectmen will fill vacancies for the unexpired term.

2. Organization and Rules of the Committee

A. The Committee shall annually elect a Chairperson and a Secretary. Each of these officers shall serve a one-year term and shall be eligible for reelection. The Chair will call the meetings and the Secretary will take minutes.

B. A majority of the members shall constitute a quorum.

C. All meetings shall be held pursuant to public notice and be held in a public building.

D. All records of meetings and actions of the Committee shall be public records except for deliberations and decisions relating to personnel or cases involving individual burials.

E. The Committee may adopt additional rules, not inconsistent with this Ordinance, for its operation, as necessary.

3. Duties of the Cemetery Committee

A. The Committee is advisory to the Board of Selectmen. The committee shall make recommendations to the Selectmen concerning:

i. Regulations for the Cemetery.

ii. Policy for the operation, care and maintenance of the Cemetery, including recommendations for capital expenditures.

iii. Investment of perpetual care funds.

iv. Changes in fees to be charged for Cemetery services.

v. Expansion of the Cemetery.

vi. Removal of the Superintendent of the Cemetery for cause and the hiring of any new Superintendent.

4. The Cemetery Committee will provide an annual report to the Board of Selectmen on the operation and financing of the Cemetery.

SECTION 105. CEMETERY FINANCES

Town of Chebeague Island Code of Ordinances  
Chapter 11 – Administration  
Article VIII – Cemetery

1. The Perpetual Care Fund

This fund is created under 13 MRSA 1306 that requires that at least 30 percent of the proceeds from the sale of lots and individual gravesites in the Cemetery be deposited in an endowment fund for the Cemetery. This fund is held at the Town's bank. The Cemetery Committee will make recommendations to the Selectmen on the proportion of monies from the sale of lots to be invested in the Perpetual Care Fund.

2. The Cemetery Reserve

The Cemetery Reserve is funded by several revenue streams and is used for Cemetery capital expenditures such as repair and maintenance of gravestones, purchase of equipment, and repair of buildings. This account will also be held at the Town's bank. Its revenues are:

A. Interest from the Perpetual Care Fund. Under state law, this interest must be devoted to maintenance of the Cemetery or for the purchase of additional Cemetery land.

B. Money from the sale of cemetery lots that does not go into the Perpetual Care Fund principal.

C. Money from burial administrative fees.

3. The Town Appropriation

The Town will annually budget for the operation of the Cemetery including compensation for employees and regular annual expenses.

4. The Cemetery Committee and the Town Administrator shall develop the annual budget for the Cemetery. This budget will recommend operating expenses from the Town appropriation, and capital expenditures from the Cemetery Reserve.

SECTION 106. OPERATION OF THE CEMETERY

1. A Superintendent will be appointed annually by the Board of Selectmen and will report to the Town Administrator. The Superintendent will be responsible for:

A. Maintaining a map and record in the Town Office of the layout of the Cemetery and the ownership of lots and/or individual graves.

B. Selling lots through Town Office with the assistance of Town staff responsible for the Cemetery.

C. Arranging for opening and closing of graves and setting of gravestones.



Town of Chebeague Island Code of Ordinances

Chapter 11 – Administration

Article VIII – Cemetery

D. Determining the dates of the winter closing and spring opening of the Cemetery for burials.

E. Maintaining the grounds, buildings, and equipment of the Cemetery.

F. Make day-to-day administrative and operational decisions related to the Cemetery.

3. In the performance of these responsibilities the Superintendent may arrange for work to be performed by Town employees or other contractors. Such work and any outside contracts are subject to the approval of the Town Administrator and the Selectmen.

4. Under 30-A MRSA 2901 Municipalities are responsible for decorating graves of veterans of the Armed Forces of the United States of America with an American flag in an appropriate flag holder on Memorial Day (observed). They are also required to request that the Church bell be rung at 11:00 on Veterans Day.

SECTION 107. ENFORCEMENT AND PENALTIES

This Ordinance shall be enforced by the Selectmen and the Town Administrator. Each violation of this Ordinance shall be punishable by a fine of at least \$50 but no more than \$200.

SECTION 108. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

SECTION 109. SEVERABILITY

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

## RETURN ON THE WARRANT

Chebeague Island, Maine

June 1, 2013

Pursuant to the within warrant to me directed, I have notified and warned the inhabitants of said Town, qualified as herein expressed, to meet at said time and place, and for the purposes therein named, by posting an attested copy of said warrant at: Chebeague Island Town Office, Chebeague Island Hall Community Center, Chebeague Island Library, Chebeague Island Recreation Center, Island Market, Chandlers Cove Landing, Chebeague Transportation Companies vessel "Islander" and the said Town, being public and conspicuous places in said Town, on the first day of June, 2013, being at least seven days before the meeting.

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Resident of Chebeague Island

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## Town of Chebeague Island Cemetery Rules and Regulations<sup>1</sup>

The Chebeague Island Cemetery is owned and administered by the Town of Chebeague Island. It is the place where the community's dead are buried and where family and community members can visit, decorate and maintain the graves of family and friends, and generally show respect for the dead. Ownership of a burial plot frequently extends for many generations, and is often a place where family members not only from Chebeague, but also from many parts of the U.S. and the world are buried by their families who gather for such rituals.

The Cemetery is also a wonderful place to learn about Chebeague's history and people. Walking tours discussing the Island's history and genealogy are encouraged. The Town, the Historical Society and the Library can provide guidance on the island's history and genealogy to give context to the silent testimony provided by the headstones.

The Cemetery should be a peaceful place, quiet and verdant in the summer as well as shrouded in snow during the winter. It is maintained by the joint work of owners of family plots and individual graves, and by the Town, in part from the proceeds of the Cemetery's Perpetual Care Fund.

These rules are intended to guide the behavior of people using and visiting the Chebeague Cemetery.

### **1. Respect for the Dead**

The Cemetery is primarily a place for funerals and memorial services, and for honoring the dead who are buried there.

- a) The Town is responsible for decorating graves of veterans of the Armed Forces of the United States of America with an American flag in an appropriate flag holder on Memorial Day observed. They are also required to request that the Church bell be rung at 11:00 on Veterans Day [Title 30 MRSA part 2 subpart 3, chapter 131 sec 2901.1]. These duties are part of the normal operating responsibilities of the Cemetery Committee.
- b) Buffering from surrounding land uses will be provided by the Town with plantings. The Transfer Station will be closed 15 minutes before any funeral and reopened 15 minutes afterward.
- c) Vehicles, other than authorized cemetery vehicles, shall only enter the Cemetery through established entrances and shall only use the authorized roads.
- d) Snowmobiles are prohibited within the Cemetery [Title 12 MSRA Sec 13106-A.27.A(1)]

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#### **<sup>1</sup> Definitions: Under these rules**

- a. Burial: The remains of a single person, whether in a casket or in cremated form.
- b. Grave: A portion of a cemetery plot suitable for one burial in a casket. A single grave may contain several burials.
- c. Plot: a defined block of graves, usually 6 or 8 graves. In some cases all the graves in a plot are owned by a single family but some plots are owned by two or more families.

- e) The Town of Chebeague Island has a leash law which applies everywhere on the island. Dogs in the Cemetery must be on leash or in voice control of their owner. Persons walking their dogs must collect any droppings that their dogs leave, and dispose of them off the Cemetery property.
- f) Violation of the rules or conduct that is disrespectful of the dead may result in a request to leave the Cemetery. No person shall destroy, mutilate, deface, injure or remove any monument, gravestone, marker or cemetery property within the cemetery. These actions violate State law [Title 17 MSRA part 2 chapter 21 sec. 507A] and may be prosecuted.

**2. Purchase and ownership of the right to bury people in the Chebeague Cemetery**

- a) No lot or grave shall be used for any other purpose than the burial of the human dead.
- b) Persons desiring to purchase a “right of interment” meaning the purchase of a family plot or a single grave should notify the Cemetery Superintendent who will then aid them in making a decision. The person who purchases the plot or grave is “the grantee”.
- c) Complete payment for the lot or grave must be made by the grantee to the Town Clerk. Payment must be made in full at the time of purchase. No partial payments will be accepted. All lots purchased shall include in the purchase price a fee for perpetual care [Title 13, MRSA sec.1306] that the Town of Chebeague Island will hold and invest. The income there from will be used to defray part of the cost of the general operation of the Cemetery.
- d) Upon full payment, the Town Clerk will register the sale of the plot or grave in the Cemetery records, and will issue a deed for the Cemetery plot or grave to the grantee. The grantee/owner will also be given a copy of these rules and will sign and return a statement acknowledging their responsibility to follow them. Whoever the grantee is at any given time must notify the Town of any change of address.
- e) The grantee or assigns may specify in his/her will who will inherit the right of interment, meaning the plot or grave. If no provision is made in the will and a lineal descendent (relative in direct descent from the original owner) or collateral descendent (relative descended from a brother or sister of the original owner) makes a request for burial, the Cemetery Superintendent may use the following process to determine the applicant’s right of interment.
  1. The Superintendent will notify the public of the request on the Town’s website (TownOfChebeagueIsland.org), in the Island Calendar, Chebeague.org, and by posting on the Town’s regular posting places around the island. Postings will take place on or before the first of the month. Interested parties will have at least 15 days to contact the Town if they have questions or concerns.
  2. If more than one person claims the lot through either lineal or collateral descent, all parties must prove their connection to the original owner of the lot by providing documentation.
  3. Claimants must reach an amicable decision regarding use of the lot and file a written and signed agreement with the Town Clerk before a burial permit will be issued.
  4. Should the parties not reach an agreement, the Town will not arbitrate, and the parties may pursue their claim through legal means.

5. A burial permit will be issued upon the receipt of a written agreement signed by all parties.

### **3. Installation and Maintenance of Monuments**

- a) Monuments (headstones, footstones and flush plaques) may be erected on a plot or grave. Monuments shall be maintained in a safe condition by the grantee or his or her heirs and assigns. The repair and replacement of a monument, after damage, shall be at the expense of the grantee. However, the Town reserves the right to clean and/or repair monuments, especially if they pose safety problems.
- b) All monuments shall be located and set by the Superintendent, or a person designated by the Superintendent, at the lot owner's expense.
- c) Because of the need to mow the grass without damaging the monuments, no single grave shall have more than one (1) headstone and/or three (3) flush memorials. Because of the multiple cremation burials that are allowed in any grave site, and because the graves in the Cremation Garden are close together, only flush monuments are allowed on them. On new family plots, a single, central, above-ground family monument, and flush monuments for individual graves are encouraged.
- d) On single graves, the base of any headstone shall be no wider than thirty-two (32) inches. The depth of the concrete foundation for the headstone shall be at least two and a half (2.5) feet. Monuments that are flat to the ground must have a base of at least 4 inches of gravel.
- e) The Town disclaims all responsibility for losses or damages to monuments from causes beyond its reasonable control as a result of the elements, acts of God, thieves or vandals.

### **4. Care of Lots**

Graves in the Cemetery are small and close together. The largest family plot is 20' by 25' so graves are 5' by 10' at the largest. Many are smaller. Graves in the Cremation Garden are 2.5' by 2.5'. The space between lots is 3 feet except where there is a road, which is seven feet wide. As much mowing as possible is done by riding mower.

- a) The general care of the Cemetery is done by the Town, and includes the cutting of grass, raking and cleaning of the grounds and pruning or removal of trees. This is the reason for including "perpetual care" in the price of a plot or grave.
- b) No plot or grave created after July 1, 2007 may be defined by a fence, railing, hedge, crypt or enclosure of any description. Fences, railings, hedges, crypts or enclosures in place on July 1, 2007 are exempt. There shall be no eternal flame or other open flame design on any lot or grave.
- c) Planting of trees on individual plots or graves is not allowed since they can take up a great deal of space and can prevent use of part of a plot for burial purposes. The Town will plant and maintain trees on land that is not sold as graves or plots.
- d) Prior approval from the Superintendent must be obtained before the planting of any shrub. The Cemetery Committee provides a list of shrubs that will not be popular with deer<sup>2</sup>, or invasive and will grow only to a reasonable size for a small piece of land that will include future graves.

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<sup>2</sup> Any starving animal will eat any vegetation that it can find.

- e) Shrubs or vines planted or growing beyond the owner's plot or grave may be pruned or removed at the discretion of the Superintendent.
- f) The Superintendent shall conduct a fall cleanup between October 1 and November 15, and a spring cleanup between April 1 and May 15 of every year. Family members should remove any vases, urns and other non-plant decorations that they wish to put back after the cleanup. Any items to be disposed of except for plant material should be taken to the Transfer Station. The Superintendent or his designee has the right to remove such items as urns or vases if necessary. Families are encouraged during the spring clean-up period to do maintenance on their plot or grave and to plant flowers, if they choose. They are encouraged to dispose of dead plants after frost in the fall. A compost pile is located at the Hearse House for material from plants and bushes.

## 5. Burials

- a) Since burials cannot be done when the ground is frozen, the cemetery shall be open for interments at the discretion of the Superintendent, based on the condition of the ground.
- b) The Superintendent must be notified in advance, in writing (letter or email) or by telephone, of both full burials with a casket and burials of cremated ashes. In the case of full burials the Superintendent must sign the death certificate. In the case of cremated remains, the grantee must provide the certificate of cremation to the Superintendent. Both kinds of burials are subject to an administrative fee paid to the Town to cover its expenses. At the time of arrangement for burial, the grantee or designee will be given a copy of the *Town of Chebeague Island Cemetery Rules and Regulations*.
- c) At least forty-eight (48) hours' notice must be given prior to any interment.
- d) When an interment is to be made on a family plot, the location of such interment shall be designated by the plot owner (the current grantee) or their designee, and clearly located by the Superintendent. Should the plot owner fail or neglect to make such designation, the Superintendent shall decide where on the plot the grave shall be.
- e) If burial instructions are not given in writing and/or are not precise as to the particular space, the size of the grave or the location on the plot, the Town will not be responsible for any errors that result from these instructions or the lack of them.
- f) In order to eliminate sunken graves, it is required that full burials be made in outside containers (called "vaults") made of natural stone, metal, reinforced concrete, fiberglass or any other material approved by the Superintendent. Cremated remains are usually interred in a container.
- g) No interment of three (3) or more bodies shall be made in one (1) grave except in the following cases: a mother and child or two (2) infants may be buried in one grave; one (1) casket and three (3) cremations may be buried in one grave; and three (3) cremations may be buried in one grave. No double depth full burials (one casket on top of another) are allowed, but a cremation grave may be placed above a full casket. All interments shall be located and made by the Superintendent.
- h) The Town shall take precautions to keep the Cemetery safe, for example, when graves are opened. If precautions have been taken, the Town is not responsible for injuries

## 6. Disinterments

- a. Disinterments are governed by State law [Title 22 MRSA subtitle 2, part 6 chapter 701 sec 2843.2] which requires a permit from the Town Clerk. The applicant for the disinterment/disinurnment must provide the Town Clerk with the Maine Center for Disease Control and Prevention Application for Disinterment or Removal of Human Remains form and the Town of Chebeague Island Disinterment Authorization form. The permit can only be issued upon receipt of a court order, or receipt of a notarized application signed by the next of kin of the deceased who verifies that the signer is the closest surviving known relative. If there are other relatives of similar closeness, they must agree.
- b. The Superintendent must observe the opening of the grave.
- c. The Superintendent shall decide who shall pay for the cost of the disinterment.

## 7. Administration

- a. The Cemetery Committee reserves the right to recommend to the Selectmen the adoption of additional rules and regulations, or the amendment or repeal of any rule or regulation at any time as shall be deemed necessary.
- b. A copy of these Rules and Regulations must be given or sent with every Cemetery deed issued by the Town with a form for "Grantee Acknowledgement" that they have received and read the rules.
- c. The Town reserves the right, in areas that have no burials in them, to revise any existing plan for the arrangement of new graves. If a decision is made to enlarge the Cemetery, the Town reserves the right to set the new boundaries and to plan the new section. It also reserves the right to lay and use water pipes to serve the Cemetery.
- d. Transfer of plots or graves: The owner of an unused grave or plot may sell the unused grave(s) or plot back to the Town for the amount the original owner paid for the grave(s) or plot. The Town may then sell the grave(s) or plot to a new owner at the current price including perpetual care. The owner of a lot or plot may sell the unused graves to another person for the amount that the original owner paid for it. If the original deed did not include perpetual care, at the time of the sale the new owner must pay the Town for perpetual care at the current price. An owner may transfer, at no cost, all or a portion of the lot or plot to some other person(s). The Town may also allow exchanges of graves or plots, under these same rules. In all these cases the seller or the person making the transfer must show that s/he has approval for the transfer from other family members.
- e. No lot, grave or right of interment shall be transferred without endorsement by the Town Clerk and the Cemetery Superintendent. With a few exceptions, if a plot was bought before 1962 "perpetual care" was not included on the original deed. At the time of transfer or assignment, the person who is acquiring the lot, grave or right of interment must pay the Town for perpetual care at the current rate, even if no other money is involved. This payment must be made in full prior to the issuance of the new deed. Forms for the transfer of rights of interment may be obtained from the Cemetery Superintendent. Such a transfer will not be recognized without the consent of the Superintendent.
- f. When a gravesite or right of interment is sold back to the Town, the perpetual care portion of the sale price cannot be reimbursed. The refunded amount shall be the original purchase price less the perpetual care portion. The Town has no obligation to repurchase any plots, graves or interment rights.

- g. Reclaiming graves or plots: The Town may reclaim plots or graves that have been abandoned for interment for 75 consecutive years or more. This involves a “substantial search” by advertising for existing heirs or devisees. If no owner can be found, then the cemetery may use up to one-half of the unoccupied lots [Title 13 MSRA subchapter VI, sec.1381].<sup>3</sup>

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<sup>3</sup> Though the Statute refers to “perpetual care and maintenance”, this is not the issue here; it is abandonment. Cumberland and Chebeague have always provided care and maintenance, whether the owner of a plot has paid for perpetual care or not.



# COASTAL WATERS ORDINANCE

of the Town of Chebeague Island  
MAINE

With Amendments adopted as of:

March 22, 2008

September 13, 2008

January 9, 2010

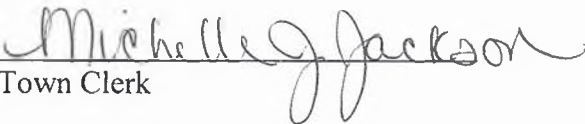
June 8, 2013

June 10, 2014

Adopted by the Town Meeting: July 1, 2007

Effective: July 1, 2007

Attest:

  
Town Clerk

Seal:

Town of Chebeague Island Code of Ordinances  
Chapter 18 – Marine Resources  
Article I – Coastal Waters

Section 101. TITLE

This Ordinance shall be known as and may be cited as the “Coastal Waters in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

Section 102. PURPOSE AND AUTHORITY

This ordinance is enacted to provide for the establishment of uniform rules governing the types of activities permitted or prohibited on the coastal waters of The Town of Chebeague Island. It is intended to ensure the safety of persons and property, to promote the availability and use of public resources, to encourage and protect traditional maritime and commercial activities, to provide for Aquaculture activities, and to create a fair and efficient framework for administering the use of those resources.

This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001 and 38 M.R.S.A., Chapter 1, Subchapter 1.

Section 103. DEFINITIONS

- a) **Abandoned Moorings.** The term ‘Abandoned Mooring’ shall refer to any mooring that is unused or unregistered for 365 days by the owner or his family.
- b) **Abandoned Vessel.** The term ‘Abandoned vessel’ means any vessel in the waters of the Town of Chebeague Island that is inoperative and neglected, submerged or partially submerged, or that has been left by the owner in coastal waters without intention of removal.
- c) **Anchorage.** The term ‘Anchorage’ shall refer to the occupancy of any space within the waters of the Town of Chebeague Island by a vessel while at anchor, whether or not the anchoring device is resting on lands under water within the boundaries of the Town of Chebeague Island.
- d) **Aquaculture.** The term ‘Aquaculture’ shall mean the culture or husbandry of marine organisms by any person.
- e) **Catch Storage Mooring.** The term ‘Catch Storage Mooring’ shall mean a mooring used by Commercial Fisherman to store their catch and cannot be used to moor a vessel or float.
- f) **Chebeague Transportation Company (CTC) Vessel.** The term ‘Chebeague Transportation Company (CTC) vessel’ shall mean any vessel owned and operated by the Chebeague Transportation Company.
- g) **Commercial Fisherman.** The term ‘commercial fisherman’ shall refer to a fisherman who is licensed by the State to harvest the marine species authorized by the license.
- h) **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 Chebeague Island for any commercial operation such as, but not

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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.

- i) **Harbormaster.** The term ‘Harbormaster’ shall refer to the person appointed to serve as such by the Board of Selectmen.
- j) **Mooring.** The term ‘mooring’ shall mean an anchoring device not carried aboard a vessel as regular equipment.
- k) **Non-Resident.** The term ‘non-resident’ shall refer to any individual who does not maintain a legal residence within the Town of Chebeague.
- l) **Non-Resident Taxpayer.** The term ‘non-resident tax payer’ shall refer to a non-resident who pays real estate taxes to the Town of Chebeague.
- m) **Oil.** The term ‘oil’ shall refer to 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, bunker fuel, and crude oil.
- n) **Rental Mooring.** The term ‘rental mooring’ shall refer to a mooring which is leased or rented to a person other than the holder of the mooring registration.
- o) **Resident.** The term ‘resident’ shall refer to an individual who maintains a legal resident status in the Town of Chebeague Island.
- p) **Shorefront property owner.** The term ‘shorefront property owner’ shall mean any person owning at least 100 feet of contiguous shorefront in the Town of Chebeague Island.
- q) **Town Float.** The term ‘town float’ shall refer to a float owned by the Town of Chebeague Island.
- r) **Town Landing.** An area of land or easement contiguous to the waters of the Town of Chebeague Island which is owned by the Town.
- s) **Traditional Fishing Areas.** ‘Traditional fishing areas’ are the Waters of the Town of Chebeague Island and those areas sharing these borders considered adjacent areas. For the purpose of this ordinance, waters bordering these boundaries are also included under this term.
- t) **Vessel.** The term ‘vessel’ shall refer to boats of all sizes powered by wind, machinery, by hand or by tow. It includes barges, dredges, scows and watercraft of any kind.
- u) **Waters of the Town of Chebeague Island.** All waters below the mean high tide mark within the legal boundaries of the Town of Chebeague Island as established by Private and Special Law 2007, Chapter 47.

- v) **Water Taxi.** The term 'Water taxi' shall mean any boat (1) approved and licensed by the U.S. Coast Guard and used to carry passengers to and from Chebeague Island for a fee, (2) under the command of a person duly licensed to operate said boat, (3) offering, subject to weather conditions, an on-call water transportation service between Chebeague Island and the mainland or other islands in Casco Bay daily, (4) which is in full compliance with all applicable rules of any governmental agency, and (5) whose owner or operator, if requested by the Town of Chebeague Island Selectmen, provides a bond in form and amount satisfactory to the Town of Chebeague Island Selectmen guaranteeing safe and reliable performance of the service described in (3) above.

Section 104. COASTAL WATERS COMMISSION

- a) **Membership.** The Coastal Waters Commission shall be comprised of 5 people each of whom is a Resident or Non-Resident taxpayer. At least three (3) members shall be employed currently, or have been employed in the past, in the fishing industry or some other marine related activity.
- b) **Term.** Members shall serve for terms of 3 year(s). Terms shall be staggered.
- c) **Chairman.** The Commission shall annually elect a Chairman from among its members. The Chairman shall call meetings as necessary or when so requested by a majority of members or the municipal officers. The Chairman or his appointee shall preside at all meetings.
- d) **Secretary.** The Commission shall annually elect a Secretary. The Secretary shall maintain a record of all proceedings including all correspondence of the Commission and regularly submit the records to the Town Clerk.
- e) **Notice.** All meetings shall be held in a public place and scheduled through the Town Administrator who shall provide reasonable notice.
- f) **Quorum.** A quorum necessary to conduct business shall consist of at least a majority of appointed members.
- g) **Meetings.** All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. §§ 401-410.
- h) **Rules of Procedure.** The Commission may adopt rules of procedure not inconsistent with this ordinance.
- i) **Project Development and Recommendations.** The Commission will use the following procedure when developing projects or making recommendations:
  - i. The Commission is tasked with identifying aspects of the marine infrastructure that may need the attention of the Town. The issues may include but are not limited to: facilities development and maintenance, regulations, usage, permitting, and access.
  - ii. Once an issue has been identified, the Commission will evaluate the scope of the problem and its importance. If the issue is deemed to be a high priority,

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the Commission will inform the Town Administrator first and then the Board of Selectmen.

- iii. The Administrator and Selectmen will meet with the Commission to determine if the issue should be pursued, to what extent, and what if any financial and / or staff support (such as the Harbormaster or Administrator) will be allocated. The Selectmen will make the final determination as to whether the project will be taken to completion. The Selectmen will execute any bid documents and will oversee the project with the Commission serving in an advisory capacity.

The municipal officers and Town staff shall cooperate with and provide the Commission with such information as may be reasonably necessary and available to enable it to carry out its functions under this ordinance.

Section 105. DUTIES OF THE COASTAL WATERS COMMISSION

The Coastal Waters Commission exists:

- a) to review and recommend to the Board of Selectmen development and activities on or in the coastal waters of the Town of Chebeague Island;
- b) for the general purpose of studying and evaluating public usage of, and access to, the Coastal Waters of the Town of Chebeague Island;
- c) for the planning for the future use of those waters;
- d) to advise the Selectmen on policy matters and proposed regulations concerning the Coastal Waters of the Town of Chebeague Island;
- e) in conjunction with local, State, and Federal authorities, to plan and recommend improvements in the Coastal Waters of the Town of Chebeague Island;
- f) to sit as a board of appeals to hear appeals as provided by this Ordinance from any person aggrieved by a decision, act, or failure to act on the part of the Harbormaster. Decisions of the Coastal Waters Commission may be appealed to the Board of Selectmen for a final determination;
- g) to review applications for wharf or pier construction as required by Chapter 17, Article II, Section 421.3 of the Zoning Ordinance of the Town of Chebeague Island;
- h) to recommend the use and maintenance of marine facilities to the Board of Selectmen and review these recommendations from time to time as required;
- i) to review candidates for the Harbormaster position and make recommendations to the Board of Selectmen;
- j) to determine whether a vessel is abandoned in accordance with 38 M.R.S.A. § 9;
- k) to develop criteria for reviewing permit applications for proposed Aquaculture in traditional fishing areas;

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- l) to review all permits, leases, licenses, or renewals for Aquaculture in the Town of Chebeague Island under Title 12 of the Maine Revised Statutes and prepare a written report to the municipal officers and Harbormaster that includes at a minimum:
  - i. an assessment of the impact to local marine activity,
  - ii. an assessment of potential public safety issues,
  - iii. a recommendation to the municipal officers to request or not request a public hearing under 12 M.R.S.A. §6072-A(6), and
  - iv. a recommendation to the municipal officers to request or not request intervener status as allowed under 12 M.R.S.A. §6072(5) if applicable.
- m) at the request of the Board of Selectmen, to review existing Aquaculture and make a written report;
- n) to prepare for the presentation of facts and evidence at any public hearings held by the Board of Selectmen or the Department of Marine Resources for Aquaculture in Traditional Fishing Areas; and
- o) to review permit applications for wharves, fish weirs, or traps in tidewaters, pursuant to 38 M.R.S.A. §§ 1021-27, and provide comments in writing to the Board of Selectmen, the Planning Board, and the Code Enforcement Officer within 10 days of receiving the application.

The Commission shall regularly inform the Selectmen, Planning Board and such other boards, committees, or officials of the Town of Chebeague Island as appropriate of its activities.

The Code Enforcement Officer shall provide The Coastal Water Commission with a copy of any application filed for a wharf, fish weir, or trap in tidewaters permit submitted to the Board of Selectmen pursuant to a 38 M.R.S.A. §1021-§1027.

Section 106. HARBORMASTER

The Selectmen shall appoint a Harbormaster, and shall recommend the Harbormaster's compensation annually. The Selectmen, for cause by them declared in writing, after due notice to the officer and hearing, if requested, may remove the Harbormaster and appoint another one.

Section 107. DUTIES OF THE HARBORMASTER

The Harbormaster shall:

- a) manage the Floats, Docks, Ramps, Moorings, Landings, and Watercraft owned by the Town;
- b) seasonally set channel markers for the approach to the Stone Wharf in order to provide safe passage for boats entering at low tide;

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- c) take whatever action is necessary and appropriate to remove any menace to navigation within the waters of the Town of Chebeague Island;
- d) regularly attend meetings of the Coastal Waters Commission, but shall not be a member of the Commission;
- e) keep the Town Administrator and Commission fully informed of his activities;
- f) provide information on matters pertaining to the Commission's duties and responsibilities;
- g) attend Selectmen's meetings as requested by the Commission, the Selectmen or Town Administrator; and
- h) 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.

Section 108. OPERATION OF VESSELS

Any vessel owner, operator, or agent desiring to conduct activities within the Waters of the Town of Chebeague Island that may injure, damage, disrupt the normal activities or occupations of, or otherwise harm the residents of the Town of Chebeague Island or their property shall first obtain permission from the Board of Selectmen. Notice of such activities, and a request for permission must be provided a minimum of forty-eight (48) hours in advance to the Harbormaster or, in his absence, the Town Administrator.

It shall be unlawful for any person to engage in any of the following in the Waters of the Town of Chebeague Island:

- a) operating a vessel so as to endanger persons or property;
- b) operating a vessel in a manner that creates excessive wake/wake-wash;
- c) establishing or maintaining a temporary Anchorage without prior authorization from the Harbormaster;
- d) Blocking or restricting access to a Town Landing or ramp.
- e) Abandoning a vessel, including abandoning a vessel on the shore of the Town of Chebeague Island. Except where the vessel constitutes an immediate hazard to public health, safety and welfare, the Harbormaster shall notify the owner of an Abandoned Vessel of the owner's duty to remove any abandoned vessel within thirty (30) days of the date of the 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 38 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. Removal

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- of an abandoned vessel does not constitute payment of any penalties which may be assessed;
- f) abandoning lobster, crab, and/or shellfish traps, cars, crates, floats, or moorings;
  - g) Refusing to obey any lawful order of the Harbormaster.
  - h) violating any laws, rules or regulations of any local, state or federal agency with regard to operating vessels, 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 Chebeague; and
  - i) Transferring any Oil in bulk in quantities in excess of 5,000 gallons, including bunker fuel, without first deploying an 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.



Section 109. MOORINGS

a) Registration

All Moorings located below low water, except outhauls, shall be registered with the Town Clerk. Permits will be issued for the calendar year January 1 through December 31. Any applicant who completes a renewal application by July 1 prior to the start of any calendar year shall be given preference as to the location then occupied by that registrant’s Mooring for that calendar 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 d) below. In such an event, the Harbormaster will provide a mutually agreeable site and re-assign the Mooring at the expense of the Mooring owner taking over the applicant’s previous site.

b) Fees

The Board of Selectmen shall set a fee for Mooring registration in accordance with Chapter 11, Art. II, Section 109(s) of the Town of Chebeague Island Code of Ordinances. The fee schedule may reduce the registration fees for multiple registrations by the same Mooring owner. The fee schedule may set separate fees based on mooring classifications consistent with this section:

Mooring Classification	Fee Allowed	Priority
Resident Commercial	Yes	1
Non-Resident Commercial	Yes	4
Resident	Yes	2
Non-Resident Taxpayer	Yes	3
Non-Resident	Yes	5
Rental Mooring	Yes	
Catch Storage Moorings	No	

If more than five (5) new Moorings are desired by any one applicant, a written request must be submitted to the Commission with the application form, stating the reason for the request. The request must be approved by a vote of the Commission.

c) Unregistered Moorings

If any Mooring in the Town of Chebeague Island is unregistered after July 1, the Town Clerk or Harbormaster shall notify the owner. If registration is not completed within ten (10) days of notice, the owner shall pay a fine for each day that the Mooring remains unregistered, as set forth in Section 114 of this Ordinance. If the Mooring has not been completed within 30 days of notice, the Harbormaster may remove the Mooring at the expense of the Mooring owner in accordance with 38 M.R.S.A. § 4. In addition to the removal costs and accumulated penalties, the Mooring owner must pay a fee of \$100 to the Town.

d) Assignment

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.

If there is insufficient space to assign allocations for all registered Moorings in the location requested, the applicants not assigned Mooring locations shall be placed on a waiting list, which will be maintained by the Town Clerk. The list will be posted and available for inspection in the Town Office.

As space in the Waters of the Town of Chebeague 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. § 7-A(2) on the basis of the date of the applicant's request and with the priorities identified in SECTION 110 (b). Notwithstanding the above, Residents and Non-Resident Taxpayers who are Shorefront Property Owners shall have priority for one Mooring fronting their land, if so requested, but not to encroach on the natural channel or channels established by the municipal officers; provided that not more than one Mooring may be assigned to any shorefront parcel of land under this privilege. The limitation of one Mooring assigned under this privilege does not prevent the owner of a shorefront parcel from receiving additional Mooring assignments under the allocation system.

The sale of a Mooring to a third party, when a waiting list exists, shall not convey the assigned Mooring location, unless sold to the person holding the next assignment on the waiting list. The Harbormaster shall be notified of all sales of Moorings in the Waters of the Town of Chebeague Island.

The Harbormaster shall be responsible for relocating Moorings when they pose a danger to other property due to their position. Such relocation shall be paid for by the owner of the dangerous Mooring.

e) Mooring Plan

The Commission may recommend to the Selectmen a Mooring plan for any area in the Waters of the Town of Chebeague Island.

f) Markings

The Town Clerk will issue a registration number for each Mooring, which is to be painted on the Mooring float. Numbers must be no less than three (3) inches in height, and of black paint or quality adhesive characters.

All Mooring balls, except those used for rental purposes, will be white. Rental buoys should be orange. Rental buoys will bear characters three inches high indicating the Mooring weight; i.e. 75lbs, 100lbs, 200lbs, 1000lbs, etc.

Town of Chebeague Island Code of Ordinances  
 Chapter 18 – Marine Resources  
 Article I – Coastal Waters

Catch Storage Moorings will be considered temporary Moorings and must be registered at the Town Office with no fee. These moorings will be assigned a number by the Town Clerk and identified with the letter “S”.

g) Construction

Moorings applicants are responsible for constructing their Moorings in a manner suitable for its intended purpose.

h) Removal of Abandoned Moorings

The Harbormaster shall notify the Board of Selectmen 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 the 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 provisions of 38 M.R.S.A. § 4.

Section 110. PUBLIC WHARVES AND FLOAT SYSTEMS

a) Stone Wharf

The Town shall maintain a float system at the Stone Wharf for the benefit of the public. The float system shall provide for the following functions:

Function	May Apply				Description
	Fee	Permit	Size limits	Time limits	
Emergency Services	No	No	Yes	No	Includes the transportation of Fire, Rescue and Law Enforcement personnel or equipment in the performance of professional services for the Town.
Regular ferry access to the mainland	No	No	Yes	No	A commercial or governmental operation that maintains a regular public service to the island.
Commercial Marine activities	No	No	Yes	Yes	A business whose main occupation involves the maritime environment such as fishing, water taxi, guiding, tours and is engaged in the commercial activity.
Transient tie-up	Yes	No	Yes	Yes	A vessel may temporarily tie multiple lines to cleats or a tie rail to secure the vessel and safely load or unload passengers or cargo. The vessel may be left unattended.
Annual tie-up	Yes	Yes	Yes	No	The town guarantees access to a float or floats for the purpose of tying the bow line only (normally) to a cleat or tie rail designated for that purpose.
Loading zones for recreational use	No	No	Yes	Yes	A vessel may temporarily tie multiple lines to cleats or a tie rail to secure the vessel and safely load or unload passengers or cargo. The vessel may not be left unattended.

Town of Chebeague Island Code of Ordinances  
 Chapter 18 – Marine Resources  
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Gear storage (optional)	No	No	Yes	Yes	The term gear refers to any and all items that might be left on surface of the float. This is an optional provision and may be entirely disallowed by the rules and regulations.
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a) Chandler’s Cove Wharf

The Town shall maintain a float system at the Chandler’s Cove Wharf for the benefit of the public as may be allowed by the Department of Transportation. The float system shall provide for the following functions:

Function	May Apply				Description
	Fee	Permit	Size limits	Time limits	
Emergency Services	No	No	Yes	No	Includes the transportation of Fire, Rescue and Law Enforcement personnel or equipment in the performance of professional services for the Town.
Public Utilities	No	No	Yes	No	A vessel used to transport personnel or equipment to or from the island may tie up while performing its professional services.
Commercial Marine activities	No	No	Yes	Yes	A business whose main occupation involves the maritime environment such as fishing, water taxi, guiding, tours and is engaged in the commercial activity.
Transient tie-up	Yes	No	Yes	Yes	A vessel may temporarily tie multiple lines to cleats or a tie rail to secure the vessel and safely load or unload passengers or cargo. The vessel may be left unattended.
Annual tie-up	Yes	Yes	Yes	No	The town guarantees access to a float or floats for the purpose of tying the bow line only (normally) to a cleat or tie rail designated for that purpose.
Loading zones for recreational use	No	No	Yes	Yes	A vessel may temporarily tie multiple lines to cleats or a tie rail to secure the vessel and safely load or unload passengers or cargo. The vessel may not be left unattended.
Gear storage (optional)	No	No	Yes	Yes	The term gear refers to any and all items that might be left on surface of the float. This is an optional provision and may be entirely disallowed by the rules and regulations.

b) Rules and Regulations

The Board of Selectmen may develop rules and regulations to govern the use of the float systems in accordance with this section. If rules or regulations are inconsistent with this ordinance then this ordinance shall take precedence.

c) Permits

Annual permits shall be issued by the Town of Chebeague Island. Application forms are provided by the Town Clerk and approved by the Harbormaster. Applications may be rejected if the vessel does not meet the size requirements or

Town of Chebeague Island Code of Ordinances  
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Article I – Coastal Waters

is deemed a hazard to other boats by the Harbormaster. Applicants will receive a sticker that must be applied to the boat in a place clearly visible from the bow.

Boats will be placed in designated areas and shall receive annually a permit and location area. Boats shall be required to dock in their designated float area. Individual spaces will not be assigned, but areas shall be designated for boats less than 14' in length and 12' to 17' in length.

d) Review

The Coastal Waters Commission shall review the rules and regulation annually and provide a report to the Board of Selectmen by October 1st of each year addressing at a minimum: 1) the capacity of the float system, 2) the effectiveness of the rules and regulations and 3) the physical condition of the float system.

e) Harbormaster Discretion

The Harbormaster may temporarily suspend provisions in this section only in cases where public safety or property are at risk and such action will reduce that risk. Such a decision must be recorded in the Harbormaster's log.

Section 111. FEES

Fees authorized under this ordinance may be set by the Board of Selectmen in accordance with Ch. 11, Art I, Sec 109(S) of the Town of Chebeague Island Code of Ordinances.

Section 112. FLOATING BUSINESSES AND RESIDENCE

It is a violation of this ordinance to live aboard a vessel in the Waters of the Town of Chebeague Island for more than 30 consecutive days without a permit. It is a violation of this ordinance to conduct a Floating Business within the waters of the Town of Chebeague Island without a permit. Permits are issued by the Harbormaster. Permits are issued for a calendar year. No fee may be charged for a permit issued under this section.

Section 113. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the Town Administrator and may be enforced by the Harbormaster, municipal officers, code enforcement officer or any law enforcement officer with jurisdiction in the Town of Chebeague Island.

Section 114. PENALTIES

The Town may issue citations for violations of the Rules and Regulations promulgated under Section 111 of this Ordinance, as follows:

\$10	1 <sup>st</sup> offense
\$25	2 <sup>nd</sup> offense within 1 year of 1 <sup>st</sup> offense
\$50	3 <sup>rd</sup> offense within 1 year of 1 <sup>st</sup> offense

Town of Chebeague Island Code of Ordinances  
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Each day that a violation continues after the time allowed for correction shall be a separate offence.

Any other violation of this Ordinance shall be a civil infraction subject to a fine of not more than \$250. Each violation, and each day that a violation continues, shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or related structure and reasonable attorney fees and costs. If an owner fails to remedy a violation after having been given notice and an opportunity to correct, the municipal officers may authorize the Harbormaster, the Code Enforcement Officer, or the Town Attorney to bring a civil action in court to enforce the provisions of this Ordinance.

Vessels in violation of this ordinance or the rules and regulations established by the Board of Selectmen shall be subject to impoundment by the Town of Chebeague Island after the second offense in a single calendar year.

Section 115. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

Section 116. SEVERABILITY

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

Town of Chebeague Island – Board of Selectmen Policy Statements  
Coastal Water Rules and Regulations

1. Purpose and Authority

The Board of Selectmen (Board) is granted authority under Ch. 18, Art. I, Sec. 110 of the Town of Chebeague Island Code of Ordinances, referred in this document as the Coastal Waters Ordinance, to create and maintain rules and regulations for specific purposes. This document constitutes the sole body of rules and regulations authorized under the Coastal Waters Ordinance.

2. Procedure

Section 110 of the Coastal Waters Ordinance allows the Board to modify this document at any properly notice meeting of the Board but requires the Board to hold a public hearing prior to adopting any changes.

3. Policy

It is the policy of the Board that the following body of rules and regulations will encourage the safe and fair use of public marine facilities maintained by the Town.

4. Fines and Penalties

Fines and penalties for violations of these rules are set in Sections 111 and 114 of the Coastal Waters Ordinance and cannot be set in these rules and regulations.

5. Permits and Fees

Permits and fees are enabled by the controlling ordinance and set by the Board of Selectmen in accordance with Ch. 11, Art. I, Sec. 109(S) of the Town of Chebeague Island Code of Ordinances.

6. Stone Wharf (excluding the float system)

a) No vessel shall be berthed, tied up, or otherwise secured to the Stone Wharf except for loading and unloading, except that vessels may be left to ground out for repair or painting with the permission of the Harbormaster.

b) No vessel may be left unattended while berthed at the Stone Wharf except with the permission of the Harbormaster

c) Wharf Surface

Except for the purposes of loading or unloading, it shall be unlawful for any person to place or cause to be placed any vessel, lobster trap, or any gear or object on the Stone Wharf, for storage, drying, repair, or any other purpose for longer than 48 hours.

d) Haul-offs

No haul-offs or pulley lines shall be permitted at the Stone Wharf Except as shown below.

7. Stone Wharf Float System

Town of Chebeague Island – Board of Selectmen Policy Statements  
Coastal Water Rules and Regulations

No vessel regardless of size shall be berthed, tied up or otherwise secured to any Town float at the Stone Wharf except as allowed in these rules and regulations.

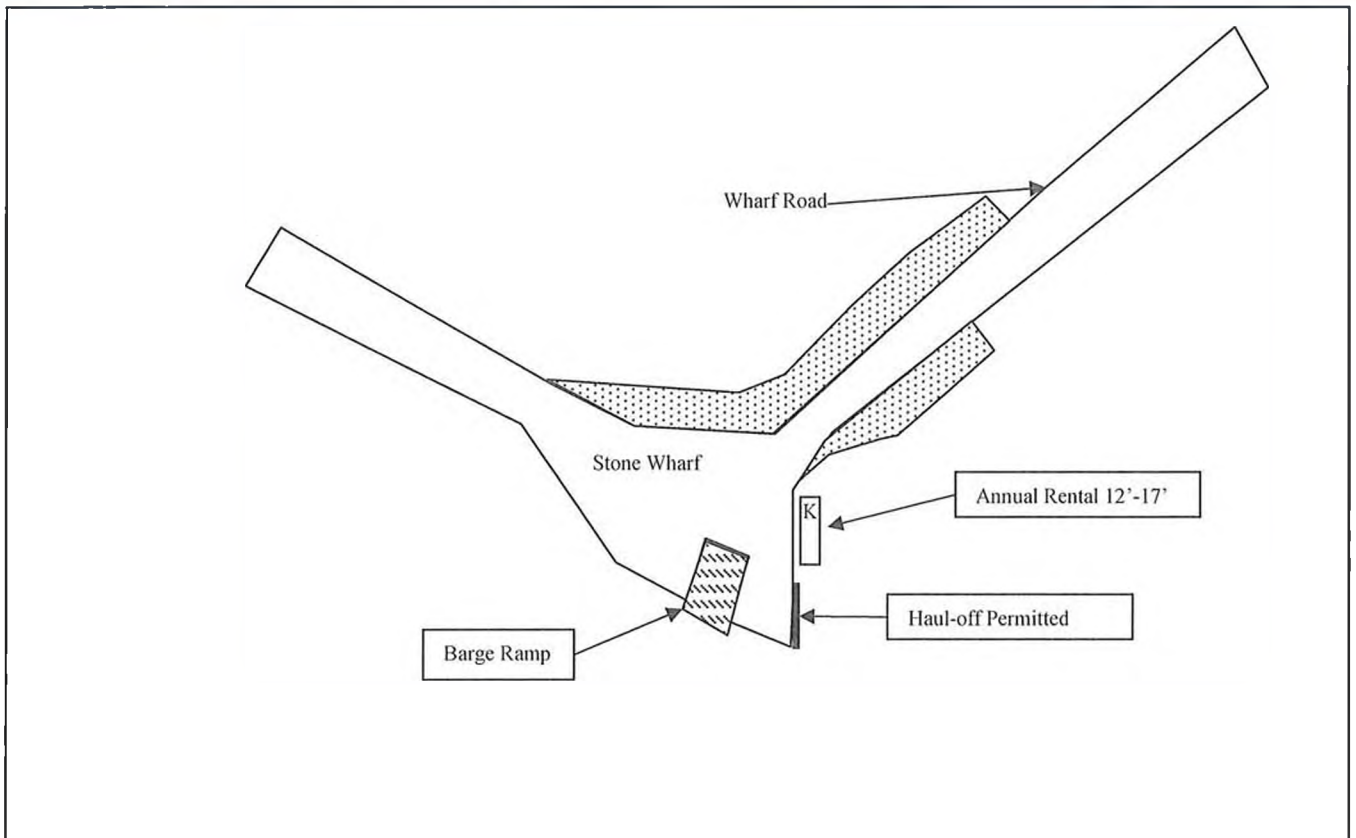
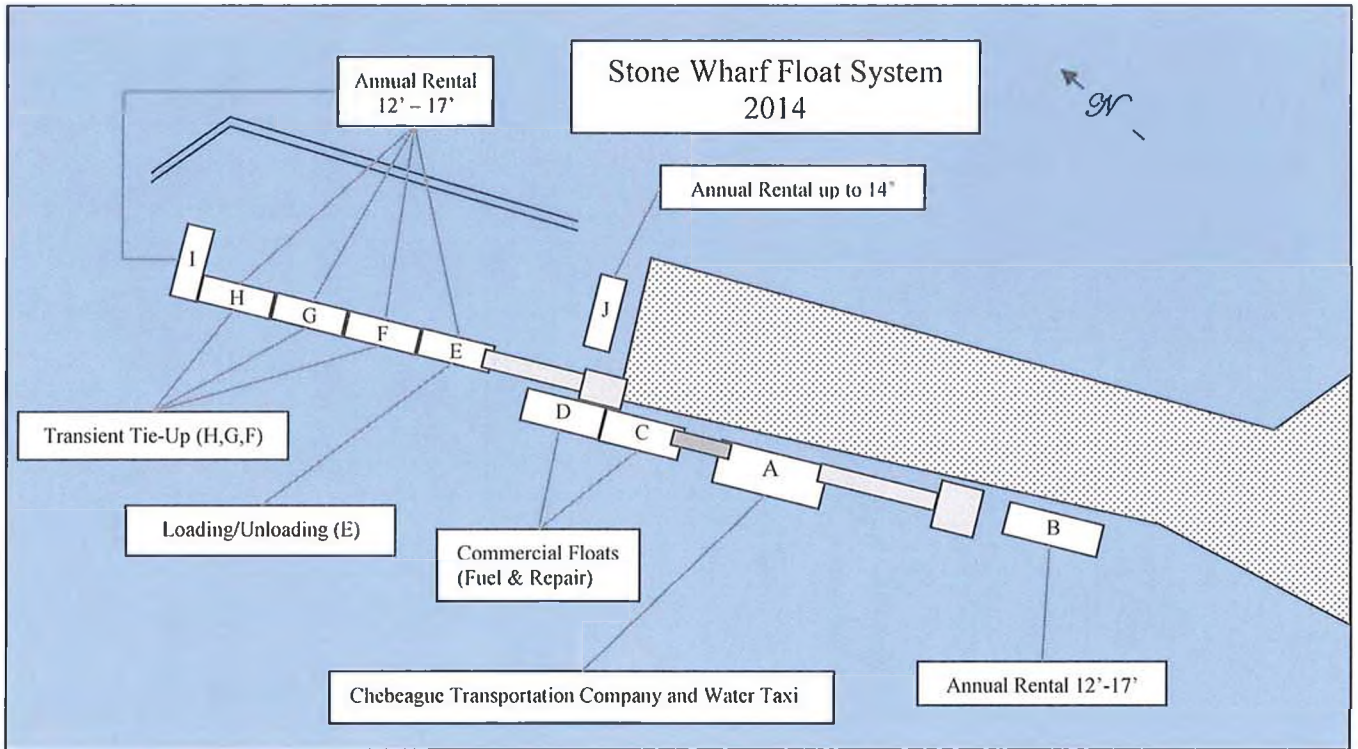
a) Float Surface

No person shall place or cause to be placed any vessel on the deck or surface of any float. Except for the purposes of loading or unloading, it shall be unlawful for any person to place or cause to be placed any vessel, lobster trap, or any gear or object on the deck or surface of any float.

Float	Length Restrictions	Fee applies	Time Restriction	
A	None	No	None	Float A of the Stone Wharf shall be used for berthing only the vessels of the Primary Ferry Service Provider, which is that organization providing the majority of passenger, personal freight and school transportation, law enforcement and fire/rescue services between Chebeague Island and Cousins Island. Water taxis may use Float A provided they do so without interfering with the safe operation of the Primary Ferry Service Provider. Other vessels may use Float A for the immediate loading and unloading of passengers and/or cargo when this may be accomplished without interfering with the previously named vessels.
B	12' – 17'	Yes	Annual Permit	Bow line tie up only.
C	None: Commercial	No	None	Floats C & D are considered commercial floats and may be used for fueling and repair by commercial vessels only. Other one-time uses (including other vessels) may be allowed by special permission from the Harbormaster. Vessels may not be left unattended at these floats.
D	None: Commercial	No	None	
E-East	12' to 17'	Yes	Annual permit	Bow line tie up only.
E-West	None: Loading/Unloading	No	15 min/4 hr	
F-East	12' to 17'	Yes	Annual Permit	Bow line tie up only.
F-West	None: Transient	Yes	one	Transient Punt tie-up Space, when available, shall be designated by the Harbormaster.
G-East	12' to 17'	Yes	Annual Permit	Bow line tie up only.
G-West	None: Transient	Yes	None	Transient Punt tie-up Space, when available, shall be designated by the Harbormaster.
H-East	12' to 17'	Yes	Annual Permit	Bow line tie up only.
H-West	None: Transient	Yes	None	Transient Punt tie-up Space, when available, shall be designated by the Harbormaster
I	12' to 17' (Is intended for inflatable)	Yes	Annual Permit	Bow line tie up only.
J	12' to 14'	Yes	Annual Permit	Bow line tie up only.
K	12' to 17'	Yes	Annual Permit	Bow line tie up only.



Town of Chebeague Island – Board of Selectmen Policy Statements  
Coastal Water Rules and Regulations



Town of Chebeague Island – Board of Selectmen Policy Statements  
Coastal Water Rules and Regulations

8. Chandler’s Cove Wharf Float System

The wharf structure at Chandler’s Cove is controlled by the State of Maine Department of Transportation. The Town of Chebeague Island is authorized to maintain a series of floats off the North side of the wharf.

a) Exceptions

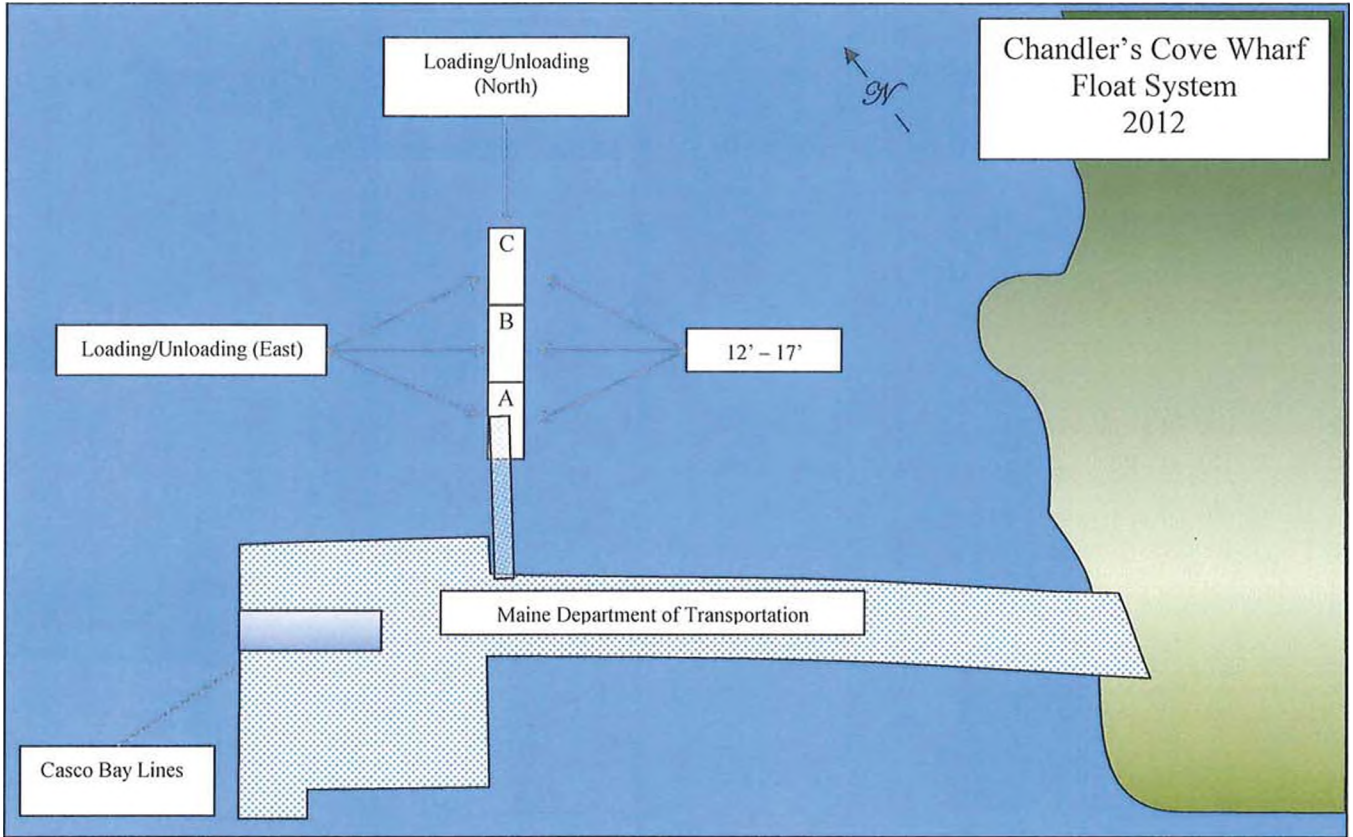
Vessels used by public utilities or emergency response shall be exempt from restrictions in this section for the Town float system at Chandler’s Cove Wharf.

b) Float Surface

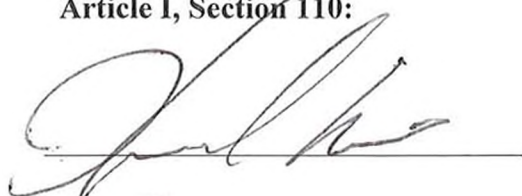

Except for Loading and Unloading, it shall be unlawful for any person to place, or cause to be placed, any vessel, lobster trap, or any other gear or object on the deck or surface of any float or parking area for storage, drying, repair, or any other purpose.

Float	Length Restrictions	Fee applies	Time Restriction	
A-East	up to 17'	No	None	Bow line tie up only.
A-West	None: Loading/Unloading	No	fifteen (15) minutes during any continuous four hour period	
B- East	up to 17'	No	None	Bow line tie up only.
B-West	None: Transient	No	fifteen (15) minutes during any continuous four hour period	
C-East	up to 17'	No	None	Bow line tie up only.
C-West	None: Transient	No	fifteen (15) minutes during any continuous four hour period	
C-North	up to 17'	No		

Town of Chebeague Island – Board of Selectmen Policy Statements  
Coastal Water Rules and Regulations

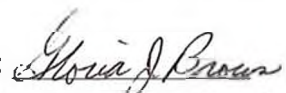


We the undersigned Selectmen have reviewed this document and voted to approve the rules and regulations contained herein under the authority granted in the Town of Chebeague Island Code of Ordinances Chapter 18, Article I, Section 110:

  
\_\_\_\_\_  
David B. Hill  
  
\_\_\_\_\_

  
\_\_\_\_\_

Adopted on: 7/25/2018 YES  NO   
Approved 11-8-2017

Attested:   
Deputy Town Clerk

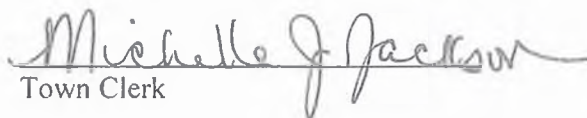
# DISBURSEMENT WARRANT ORDINANCE

of the Town of Chebeague Island  
MAINE

Adopted by the Town Meeting:

Effective: June 9, 2012

Attest:

  
Town Clerk

Seal:

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Disbursement Warrant in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to provide an alternative to the statutory procedure for approval of warrants authorizing the Treasurer to disburse money. This Ordinance is adopted pursuant to 30-A M.R.S.A. §§ 3001 and 5603(2)(A).

SECTION 103. DEFINITIONS

- a) **Education Fees:** The term ‘education fees’ shall refer to fees prepared by the Superintendent, approved by the school committee and entered into the municipal accounting system and include all expenditures from the school except payroll.
- b) **Payroll Fees:** The term ‘payroll fees’ shall refer to fees reported on a payroll warrant which shall list, at a minimum each payee, check number and gross pay for the current pay period.
- c) **State Fees:** The term ‘State Fee’ shall mean any licensing or registration fee collected by the municipality acting as an agent for the State of Maine. An example of such a fee is vehicle registration fees. The budget accounts include (but may not be limited to) the following:

BUDGET ACCOUNTS	
0022-0315	Treasurer, State of Maine
0376-0315	Treasurer, State of Maine (DEP)
0379-0315	Treasurer, State of Maine (ACO)
0377-0315	Treasurer, State of Maine (DPS)
0380-0315	Treasurer, State of Maine (MOSES)
GENERAL LEDGER ACCOUNTS	
G-250-00	Maine Department of Motor Vehicle
G-255-00	Maine Online Sportsman's Electronic System (MOSES)
G-265-00	Dog Licenses
G-267-00	Plumbing fees

- d) **Municipal Fees:** The term ‘municipal fees’ shall refer to all other disbursements not included in Education, Payroll and State fees as defined in this ordinance.

- e) The definitions contained in Title 12-A M.R.S.A. for terms not otherwise defined in this chapter shall govern the construction of words contained in this ordinance. Any words not otherwise defined therein shall be given their common and ordinary meaning.

#### SECTION 104. STATE FEE WARRANTS

The Treasurer may pay to the State of Maine any licensing or registration fees collected on its behalf after obtaining a signature from one member of the Board on a properly prepared itemized disbursement warrant.

The Treasurer shall request a signature from (in order) (1) the chair of the Board, (2) the vice-chair or (3) any other sitting member.

The Treasurer will report the date and amount of the state fees warrant at the next meeting of the Board.

#### SECTION 105. EDUCATION WARRANTS

The Treasurer may disburse money after obtaining a signature from one member of the Board on a properly prepared itemized disbursement warrant. Such warrants are to be prepared in the municipal accounting system from a warrant approved by the School Committee.

The Treasurer shall request a signature from (in order) (1) the chair of the Board, (2) the vice-chair or (3) any other sitting member.

The Treasurer will report the date and amount of the education warrant at the next meeting of the Board.

#### SECTION 106. MUNICIPAL PAYROLL WARRANTS

The Treasurer may disburse money after obtaining a signature from one member of the Board on a properly prepared itemized disbursement warrant.

The Treasurer shall request a signature from (in order) (1) the chair of the Board, (2) the vice-chair or (3) any other sitting member.

The Treasurer will report the date and amount of the municipal payroll warrant at the next meeting of the Board.

SECTION 107. REGULAR MUNICIPAL WARRANTS

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 or (b) seen and signed by a majority of them acting individually and separately and the Treasurer will report the date and amount of the municipal warrant at the next meeting of the Board.

SECTION 108. ADMINISTRATION

This ordinance shall be administered by the Treasurer of the Town of Chebeague Island.

SECTION 109. AMENDMENTS

This ordinance may be amended by Town Meeting at any properly noticed meeting.

SECTION 110. SEVERABILITY

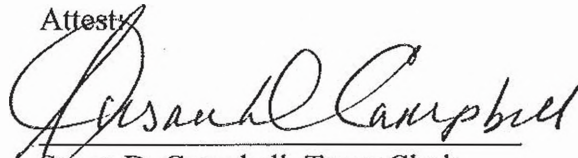
In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

# **DOG CONTROL ORDINANCE**

**of the Town of Chebeague Island  
MAINE**

Adopted by the Town Meeting:  
Effective: November 19, 2011

Attest:

  
\_\_\_\_\_  
Susan D. Campbell, Town Clerk

Seal:



Town of Chebeague Island Code of Ordinances  
Chapter 19 – Public Health and Welfare  
Article II – Dog Control

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Dog Control Ordinance for the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to provide regulations in addition to those contained in Title 7, M.R.S.A. with respect to controlling dogs throughout the Town of Chebeague Island in the interest of the health, safety and general welfare of its residents, visitors, domestic and farm animals, and wildlife. This Ordinance is adopted pursuant to 30-A M.R.S.A. §3001.

Note that 7 M.R.S.A. §3901 - 4163 comprise the state's dog laws with provisions for licensing requirements and the disposition of loose or dangerous dogs, among others.

SECTION 103. DEFINITIONS

a) **At Large** means a lack of restraint, confinement, or control. A dog is ‘at large’ when it is off its owner's or keeper's premises, without a leash, and without a person in control of the dog; a dog running, wandering, roving and rambling at will, when it is beyond control or call and is acting on his own initiative, and under such circumstances wherein there is no connection, physical or sympathetic, between the dog and the master. A dog loose, leading or following the person in charge, more than thirty feet away and/or not within sight so that the person is not able to exercise full control over the dog, is also ‘at large’.

b) **Dangerous dog** means a dog that bites an individual or a domesticated animal not trespassing on the dog owner's or keeper's premises at the time of the bite, or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises acting in a reasonable and nonaggressive manner to fear imminent bodily injury through assaulting or threatening to assault that individual or individual's domestic animal. ‘Dangerous dog’ does not include a dog certified by the State and used for law enforcement use. ‘Dangerous dog’ does not include a dog that bites or threatens to assault an individual who is on the dog owner's or keeper's premises if the dog has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault. For the purposes of this definition, ‘dog owner's or keeper's premises’ means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog.

c) **Owner** means a person owning, keeping or harboring a dog or other animal.

Town of Chebeague Island Code of Ordinances  
Chapter 19 – Public Health and Welfare  
Article II – Dog Control

d) **Keeper** means someone with care, custody, and control of a dog. One becomes the 'keeper' of a dog only when he either with or without the owner's permission undertakes to manage, control, or care for it as dog owners customarily do.

e) **Securely confined** means use of a building, heavy duty dog run, or fenced area, not including an area enclosed only by an electronic invisible perimeter fence, from which a dog can not escape.

f) Title 7 M.R.S.A. §3907 shall govern the construction of words contained in this Ordinance.

g) Any words not otherwise defined therein shall be given their common and ordinary meaning.

**SECTION 104. LICENSE**

No dog shall be kept within the limits of the Town of Chebeague Island unless it is duly licensed by its owner in accordance with the statutes of the State of Maine.

**SECTION 105. DOG CONTROL**

a) No person owning or keeping a dog within limits of the Town of Chebeague shall permit it to stroll or roam at large off premises owned or occupied by such persons.

b) A dog exercising, running, strolling, swimming on a beach while off leash must be kept under close supervision and must have the full attention of its owner or keeper.

c) A person owning or keeping a dangerous dog must keep said dog securely confined or muzzled when on the owner's or keeper's property, and controlled on a strong leash no longer than 6 feet when not on the owner's or keeper's property.

d) No person owning or keeping a dog shall permit, by its loud, frequent, or habitual barking, howling, or yelping to disturb the peace of any other person or persons.

e) It shall be the duty of any owner or keeper of a dog or anyone in possession or control of a dog to remove and dispose in a safe and healthful manner, any waste left by the animal on any street, roadside, beach (above and below the high tide mark), publicly owned property, or any private property where that person does not have permission of the owner to leave waste.

*{Exemption. The requirements for removing dog waste under this section shall not apply to a dog accompanying any handicapped person, who, by reason of the handicap, is physically unable to comply with the requirements of this section.}*

f) Persons owning or keeping a dog must ensure that said dog wear a collar having an identification tag providing owner or keeper contact information, as well as current rabies vaccination tags.

Town of Chebeague Island Code of Ordinances .  
Chapter 19 – Public Health and Welfare  
Article II – Dog Control

SECTION 106. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the Town Administrator and may be enforced by the Animal Control Officer or law enforcement officer with jurisdiction in the Town of Chebeague Island.

SECTION 107. PENALTIES

State law prescribes penalties for violations of licensing and dog control issues. Licensing violations may be adjudged at not more than \$100 (7 M.R.S.A. § 3924). Dog control violations may be adjudged at greater than \$50 but no more than \$250 for first offences; greater than \$100 but no more than \$500 for subsequent offences. Although dog waste and associated violations are not mentioned in State law, failure to remove and properly dispose of dog waste is a dog control issue and therefore will be assessed the same penalties.

SECTION 108. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

SECTION 109. SEVERABILITY

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

**Town of Chebeague Island  
Emergency Management Ordinance**

**Purpose**

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

**Definitions**

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

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

**Emergency Management Team Forces.** "Emergency Management Team Forces" shall mean the employees, equipment and facilities of all Town of Chebeague Island 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 Chebeague Island's Emergency Management Team, appointed as prescribed in this ordinance.

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

## **Organization**

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

The Board of Selectmen shall review the existing operational organization to ascertain the team's ability to cope with its responsibilities and shall approve the town's Emergency Operations Plan.

## **Appointment of Director; Duties and Responsibilities**

The Town Administrator shall appoint an Emergency Management Director; this appointment will be subject to council/board confirmation as outlined in 37-B MRSA 782. The Emergency Management Director shall coordinate the activities of all town departments, organizations, and agencies for civil emergency preparedness within the town and maintain a liaison with other emergency management agencies, public safety agencies, and have such additional duties as prescribed by the Town Administrator.

## **Rules and Regulations**

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

## **Emergency Proclamation**

The Town Administrator shall have the power and authority, upon consultation with the Selectmen Chairman to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the town. If the Town Administrator is temporarily absent from the town or otherwise unavailable, the person designated by the Town Administrator may issue the proclamation that an emergency exists. If neither the Town Administrator nor the person designated to act in his/her absence is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Emergency Management Director, the Fire Chief, the EMS Chief, the Police Chief, and the Public Works Director. A copy of such proclamation shall be filed within twenty-four (24) hours in the Office of the Town Clerk.

Notwithstanding the above, when consultation with the Selectmen Chairman would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the Town Administrator, or his/her successor as outlined above, is authorized to take whatever actions are necessary to prevent the loss of life and property in the town. The Town Administrator and the Emergency Management Director shall be responsible

for submitting a full report to the Board of Selectmen of all actions taken as a result of the declared emergency as soon as the Town Council/Board can be convened.

### **Termination of Emergency**

When the Town Administrator or his/her successor as outlined above is satisfied that a disaster or civil emergency no longer exists, he shall terminate the emergency proclamation by another proclamation affecting the sections of the town covered by the original proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the town clerk.

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

### **Town Administrator's Duties and Emergency Powers**

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

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

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

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

The Town Administrator or his/her designee shall be authorized to request aid or assistance from the state or any political subdivision of the state and may render assistance to other political subdivision under the provisions of Title 37-B, M.R.S.A. Chapter 13.

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

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

## **Emergency Operations Plan**

The Emergency Operations Director shall prepare an all hazard Emergency Operations Plan (EOP) for the town, which shall be submitted to the Board of Selectmen for approval. The EOP shall incorporate the principles of the National Incident Management System (NIMS) and the Incident Command System (ICS), and shall include those elements required by 37-B MRSA 783.

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

## **Immunity from Liability**

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

## **Compensation for Injuries**

All Emergency Management Team Forces appointed to specific functions whether paid or volunteer, shall be deemed to be employees of the Town of Chebeague Island when engaged in training or on duty and shall have all of the rights of town employees and will be covered by the Town of Chebeague Island's workers compensation insurance for the duration of the training or incident. All persons responding to assist the Town of Chebeague Island as part of mutual aid agreements will be covered by their employer or by the State of Maine under the Workers Compensation Act as set forth in Title 37-B Section 823 M.R.S.A.

## **Violation of Regulations**

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

ChebeagueIslandEmergencyManagementOrdinance 07/01/2007

## **Penalty**

Any person, firm or corporation violating any provision of this ordinance or any rule or regulation promulgated hereunder, upon conviction thereof, shall be punished by a fine of

not less than one hundred dollars (100.00) and not more than five hundred dollars (500.00) and the costs of prosecution including attorney's fees.

**Severability**

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

**Conflicting Ordinances, Orders, Rules and Regulations Suspended.**

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

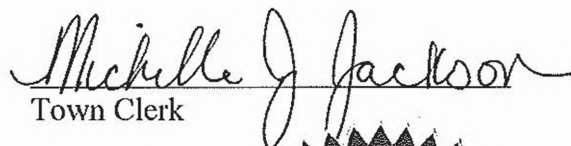


# FIRE AND RESCUE DEPARTMENT ORDINANCE

of the Town of Chebeague Island  
MAINE

Adopted by the Town Meeting:  
Effective: June 10, 2014

Attest:

  
Town Clerk

Seal:



Town of Chebeague Island Code of Ordinances  
Chapter 11 – Administration  
Article VIII – Fire and Rescue Department Ordinance

Section 101. TITLE

This Ordinance shall be known as and may be cited as the “Fire and Rescue Department Ordinance in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

Section 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to establish the Fire and Rescue Department of the Town of Chebeague Island. This Ordinance is adopted pursuant to 30-A M.R.S.A. §§ 3001, 3151 *et seq.*

Section 103. DEFINITIONS

- a) Rescue or EMS. The terms ‘rescue’ or ‘EMS’ shall refer to emergency medical services.
- b) Department or CFRD. The terms ‘Department’ or ‘CFRD’ shall refer to the Chebeague Island Fire and Rescue Department.
- c) Board of Selectmen. The term ‘Board of Selectmen’ shall mean the Board of Selectmen of the Town of Chebeague Island.
- d) The definitions contained in Title 30-A § 3151 for terms not otherwise defined in this chapter shall govern the construction of words contained in this Ordinance. Any words not otherwise defined therein shall be given their common and ordinary meaning.
- e) Officers. The term ‘Officers’ shall include the Fire Captain, Fire Lieutenant, Rescue Captain, and Rescue Lieutenant.

Section 104. ESTABLISHMENT AND DUTIES

Pursuant to Article VIII, pt. 2, § 1 of the Maine Constitution, 30-A M.R.S.A. §§ 3001 and 3153 *et seq.*, the Town of Chebeague Island hereby establishes a municipal Fire and Rescue Department. The duties of this department are:

- a) to prevent and extinguish fires and provide firefighting protection within the Town of Chebeague Island and elsewhere as provided by mutual aid or other contractual agreements,
- b) to provide emergency services by responding to and managing other public safety emergencies, including medical emergencies,
- c) to respond to all fire and EMS calls in a timely manner according to the nature of the call and the availability of service and equipment,
- d) to promote professional performance by all department members, and
- e) to provide services in accordance with all applicable federal and state statutes and regulations.

Section 105. ORGANIZATION

- a) The CFRD shall be under the supervision of the Fire and Rescue Chief (hereinafter the “Chief”). The Chief of the Department shall be appointed by the Board of Selectmen.
- b) All members of the Department serve as volunteers to the Town of Chebeague Island.
- c) The following positions are established by this Chapter:
  - a. Chief,
  - b. Fire Captain,
  - c. Fire Lieutenant,
  - d. Rescue Captain,
  - e. Rescue Lieutenant,
  - f. Firefighters and
  - g. Emergency Medical Provider (at Maine EMS defined license levels)
- d) Other positions must be created by job description and approved by the Board of Selectmen.
- e) The Department shall maintain all records at the public safety building.

Section 106. FIRE AND RESCUE CHIEF

The Selectmen shall appoint a Fire and Rescue Chief and shall recommend the Chief’s compensation annually. The Selectmen, for cause by them declared in writing, after due notice to the officer and hearing, if requested, may remove the Chief and appoint another one. The Chief reports to the Town Administrator.

The Chief shall have the authority to adopt administrative regulations consistent with this ordinance relating to municipal fire protection and emergency medical services, with the approval of the Board of Selectmen.

- a) The Chief shall have the authority to employ all Firefighters and Emergency Medical Technicians,
- b) Appoint Officers and other approved positions,
- c) Remove Firefighters, Officers, and any other members,

As provided by regulations promulgated by the Chief and approved by the Board of Selectmen. The Chief shall:

- d) Ensure personnel are trained and prepared to provide fire protection and emergency medical services,
- e) Provide for the maintenance of all equipment used by the department,

Town of Chebeague Island Code of Ordinances  
Chapter 11 – Administration  
Article VIII – Fire and Rescue Department Ordinance

- f) Provide assigned fire inspections to ensure that structures are in compliance with fire prevention ordinances.
- g) Maintain written documents titled:
  - a. Administrative Regulations (Board of Selectmen approval required),
  - b. Job Descriptions for all established positions,
  - c. Standard Operating Guidelines,
  - d. Exposure Control Plan and
  - e. Policies and Procedures.

Section 107. MEETINGS

The Department shall have regular meetings to transact department business. The Chief shall submit approved minutes to the Town Clerk on a regular and timely basis.

Section 108. FINANCES

- a) The Chief shall prepare an annual budget for the Department that shall contain budgeted amounts for all expenses related to the operation of the Department, including recommended compensation for the Chief, the Officers, EMS personnel, firefighters and other personnel. The Chief shall submit the annual budget to the Board of Selectmen at its regular meeting in January of each year.
- b) The Chief shall submit all bills, receipts and payroll documents relating to the Department to the Town Treasurer in a timely fashion, who shall be authorized to pay such bills upon approval by the Board of Selectmen of a warrant for such expenditures, and who shall keep and maintain the financial records of the Department. The Treasurer shall provide the Chief with a “year-to-date expense report” for the Department on a monthly basis.
- c) The Town shall maintain two Enterprise Checking Accounts named: 1) “Town of Chebeague Island – Chebeague Island Fire” and 2) “Town of Chebeague Island – Chebeague Island Rescue”. The accounts shall hold funds for the “Chebeague Island Fire Fund” and “Chebeague Island Rescue Fund” respectively.

Town of Chebeague Island Code of Ordinances  
Chapter 11 – Administration  
Article VIII – Fire and Rescue Department Ordinance

The Chief shall appoint a custodian of the accounts who shall maintain all records and report all transactions to the Treasurer quarterly. The Chief, the custodian and the Town Treasurer shall be authorized to sign checks.

- a. Two signatures are required for each check.
- b. All material goods purchased using these funds are the property of the Town of Chebeague Island.
- c. The Department may not solicit gifts or donations except as part of public fund raisers organized by the Department.
- d. Monetary gifts to the Department may be accepted by the Chief. As is practical, the wishes of the donor regarding the use of gifts will be respected. All other gifts must be accepted by the Board of Selectmen.
- e. Material and equipment gifts must be accepted by the Board of Selectmen.
- f. Expended funds may not be reimbursed using Town funds.
- g. The Treasurer shall receive bank statements and immediately forward a copy to the Chief,
- h. The Chief shall provide all necessary information to the Treasurer to include these accounts in the annual financial audit.

Section 109. REPORTING

The Chief shall provide the Selectmen with quarterly reports that demonstrate that:

- a. Staffing levels are adequate to provide basic fire prevention and basic emergency medical services,
- b. Licenses and certifications maintained by the department are current,
- c. Necessary training has occurred for fire and rescue personnel,
- d. All firefighting and rescue equipment has received regular maintenance and
- e. The enterprise checking accounts have been reconciled.

Section 110. MUTUAL AID

Pursuant to Title 30-A M.R.S.A., §3156, the Board of Selectmen, in consultation with the Fire Chief, may enter into mutual aid agreements with other municipalities for firefighting or other emergency services.

Section 111. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

Section 112. SEVERABILITY

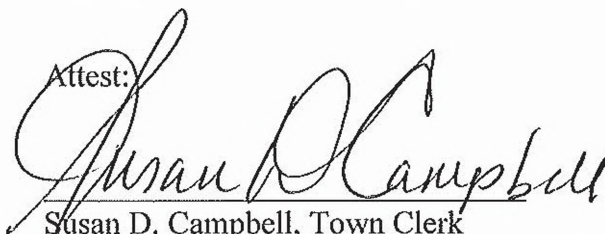
In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

# **FIREARMS ORDINANCE**

**of the Town of Chebeague Island  
MAINE**

Adopted by the Town Meeting:  
Effective: November 19, 2011

Attest:



Susan D. Campbell, Town Clerk

Seal:

Town of Chebeague Island Code of Ordinance  
Chapter 14 – Public Safety  
Article II – Firearms

SECTION 101. TITLE

This ordinance shall be known and may be cited as "Firearms Ordinance" of the Town of Chebeague Island hereinafter referred to as "this ordinance".

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this ordinance is to promote public safety protect life and property from improper use of firearms as defined in 17-A M.R.S.A. §2 ¶12-a. This Ordinance is adopted pursuant to 30-A M.R.S.A. §3009.

SECTION 103. ORDINANCE

No person may discharge a firearm in the Town of Chebeague Island except that it is not a violation of this ordinance to discharge the following firearms in conformity with State laws:

1. Shotguns, Black Powder Guns, and 22 Caliber Rimfire Guns.
2. Firearms used in defense of life, property, or livestock according to 17-A M.R.S.A. §108 and 12 M.R.S.A. §§12401 - 12404
3. Firearms used by law enforcement personnel in carrying out their proper duties
4. Firearms used in target practice on a person's own land so long as there is no danger to others, or firearms used in target practice on land of others so long as there is no danger to others and permission has been given by the landowner
5. Firearms used in properly administered educational programs in schools and other locations as provided for in 20-A M.R.S.A. §6552

SECTION 104. ENFORCEMENT AND PENALTIES

This ordinance shall be enforced by the Town's authorized police officer(s) or members of the Board of Selectmen. Each violation of this ordinance shall be punishable by a fine of at least \$50.00 but no more than \$1,000.00.

SECTION 105. AMENDMENTS

This Ordinance may be amended by Town Meeting.

Town of Chebeague Island Code of Ordinance  
Chapter 14 – Public Safety  
Article II – Firearms

**SECTION 106. SEVERABILITY**

Should any portion of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions shall remain in full force and effect.




Town of Chebeague Island Code of Ordinances  
Chapter 17- Land Use & Planning  
Article IV - Floodplain Management

## **Floodplain Management** **Ordinance**

of the Town of Chebeague Island  
Maine

Adopted by the Town Meeting: July 1, 2007  
Effective: July 1, 2007

Attest:

  
Town Clerk

Seal

SUSAN D. CAMPBELL  
Notary Public, Maine  
My Commission Expires May 22, 2014

**FLOODPLAIN MANAGEMENT ORDINANCE**

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**Town of Chebeague Island Code of Ordinances  
Chapter 17 – Land Use & Planning  
Article IV – Floodplain Management**

**SECTION 1 - PURPOSE AND ESTABLISHMENT**

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

Therefore, the Town of Chebeague 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 this Floodplain Management Ordinance.

It is the intent of the Town of Chebeague 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.

The Town of Chebeague Island has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A, Maine Revised Statutes("M.R.S."), Sections 3001-3007, 4352, 4401-4407, and 38 M.R.S. § 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Chebeague 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 Chebeague Island, Maine.

The areas of special flood hazard, Zones A1-30 and V1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Cumberland, Maine, Cumberland County," dated October 15, 1985, with accompanying "Flood Insurance Rate Map" dated October 15, 1985 - Panels 0003 C; 0021 D; 0022 D; 0023 E; and 0024 C which are hereby adopted and declared to be a part of this Ordinance.

**SECTION 2 - PERMIT REQUIRED**

Before any construction or other development (as defined in Section 14), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 1, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Section 7. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Chebeague Island, Maine.

**SECTION 3 - 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, address and phone number of the applicant, owner, and contractor;

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**Chapter 17 – Land Use & Planning**  
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- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zones A1-30 and V1-30 from data contained in the "Flood Insurance Study - Town of Cumberland, Maine," as described in Section 1.
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 6;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Section 6 by a registered professional engineer or architect:
  - 1. a Floodproofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 3.H.4.; Section 6.G.; and other applicable standards in Section 6;
  - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone V1-30, will meet the criteria of Section 6.P.; and other applicable standards in Section 6;
  - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6.L.2.a.;

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4. a certified statement that bridges will meet the standards of Section 6.M.;
  5. a certified statement that containment walls will meet the standards of Section 6.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Section 6 will be met.

**SECTION 4 - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of \$25.00 for all minor development and \$50.00 for all new construction or substantial improvements 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, Planning Board and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

**SECTION 5 - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 6 (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. the base flood and floodway data contained in the "Flood Insurance Study - Town of Cumberland, Maine," as described in Section 1.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 1 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

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approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344;

- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
  - 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Section 6, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  - 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 6.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  - 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Section 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Section 7.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 10 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Sections 3, 6, and 8 of this Ordinance.

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**Article IV – Floodplain Management**

**SECTION 6 - DEVELOPMENT STANDARDS**

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

**A. All Development** - All development shall:

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

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

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

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

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

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

1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zones V1-30 shall meet the requirements of Section 6.P.

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

1. Zones A1-30 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:

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- a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 3.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

5. Zones V1-30 shall meet the requirements of Section 6.P.

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

1. Zones A1-30 shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - (3) all components of the anchoring system described in Section 6.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zones V1-30 shall meet the requirements of Section 6.P.

**I. Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A1-30 shall either:



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- a. be on the site for fewer than 180 consecutive days,
  - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
  - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 6.H.1.
2. Zones V1-30 shall meet the requirements of either Section 6.I.1.a. or b., or Section 6.P.
- J. **Accessory Structures** - Accessory Structures, as defined in Section 14, located within Zones A1-30 shall be exempt from the elevation criteria required in Section 6.F. & G. above, if all other requirements of Section 6 and all the following requirements are met. Accessory Structures shall:
1. be 500 square feet or less and have a value less than \$3000;
  2. have unfinished interiors and not be used for human habitation;
  3. have hydraulic openings, as specified in Section 6.L.2., in at least two different walls of the accessory structure;
  4. be located outside the floodway;
  5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
  6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
- K. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A1-30 that meets the development standards of Section 6, including the elevation requirements of Section 6, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Section 14;
  2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
    - a. be engineered and certified by a registered professional engineer or architect; or,

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b. meet or exceed the following minimum criteria:

- (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
- (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
- (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

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

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

**L. Bridges** - New construction or substantial improvement of any bridge in Zones A1-30 and V1-30 shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 6.K.; and
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

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

1. Zones A1-30 and V1-30 shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions

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of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 3.K.

**N. Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30 and V1-30, in and over water and seaward of the mean high tide if the following requirements are met:

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

**O. Coastal Floodplains** -

1. All new construction located within Zones A1-30 and V1-30 shall be located landward of the reach of mean high tide except as provided in Section 6.P.6.
2. New construction or substantial improvement of any structure located within Zones V1-30 shall:
  - a. be elevated on posts or columns such that:
    - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
    - (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.
  - b. 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.
  - c. require a registered professional engineer or architect to:

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- (1) 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/June, 2000); and,
  - (2) 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 6.P.2.
3. The use of fill for structural support in Zones V1-30 is prohibited.
4. Human alteration of sand dunes within Zones V1-30 is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Section 6.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Section 7, and if all the following requirements and those of Section 6.A., 6.K., and 6.L. are met:
  - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
  - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
  - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
  - d. The structure shall have unfinished interiors and shall not be used for human habitation.
  - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
  - f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

**SECTION 7 - CONDITIONAL USE REVIEW**

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all

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applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

**A. Review Procedure for a Conditional Use Flood Hazard Development Permit**

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

**B. Expansion of Conditional Uses**

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

**SECTION 8 - CERTIFICATE OF COMPLIANCE**

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

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:**
1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 6, paragraphs F, G, H, or P and,

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2. for structures in Zones V1-30, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Section 6.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
1. review the required certificate(s) and the applicant's written notification; and,
  2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

**SECTION 9 - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations and flood boundaries. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Section 6 of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

**SECTION 10 - APPEALS AND VARIANCES**

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  - 1. a showing of good and sufficient cause; and,
  - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - c. that the granting of a variance will not alter the essential character of the locality; and,
    - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - 1. other criteria of Section 10 and Section 6.K. are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
  - 1. the development meets the criteria of Section 10, paragraphs A. through D. above; and,

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2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Section 10, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  2. such construction below the base flood level increases risks to life and property; and,
  3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
  2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
  3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
  4. The person filing the appeal shall have the burden of proof.
  5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
  6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
  7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.



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**SECTION 11 - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to 30-A M.R.S. § 4452.
- B. The penalties contained in 30-A M.R.S. § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
  - 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  - 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  - 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  - 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  - 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

**SECTION 12 - VALIDITY AND SEVERABILITY**

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

**SECTION 13 - CONFLICT WITH OTHER ORDINANCES**

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

**SECTION 14 - 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.

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

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

**Area of Special Flood Hazard** - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 1 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** - A person certified under 30-A M.R.S. § 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

**Conditional Use** - means a use that because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Section 7.

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

**Elevated Building** - means a non-basement building

- a. built, in the case of a building in Zones A1-30, to have the top of the elevated floor, or in the case of a building in Zones V1-30, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

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In the case of Zones A1-30, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section 6.L. In the case of Zones V1-30, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Section 6.P.2.b.(3).

**Elevation Certificate** - An official form (FEMA Form 81-31, 02/06, as amended) that:

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

**Flood or Flooding** - means:

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

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

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

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

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

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

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or

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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.

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

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

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

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

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Section 6.L. of this Ordinance.

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

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

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

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

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

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

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

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

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

**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

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

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

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

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

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

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

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

## **SECTION 15 - 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).

Town of Chebeague Island Code of Ordinances  
Chapter 19 – Health & Welfare  
Article I– General Assistance


## General Assistance Ordinance

of the Town of Chebeague Island  
Maine

The Town of Chebeague Island enacts the following General Assistance Ordinance.  
This Ordinance is on file with the State of Maine Department of Health & Human  
Services pursuant to 22 M.R.S. § 4305(4).

Adopted by the Town Meeting: July 1, 2007  
Effective: July 1, 2007

Attest:

  
Town Clerk

SUSAN D. CAMPBELL  
Notary Public, Maine  
My Commission Expires May 22, 2014

Seal

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## **SECTION 1. STATEMENT OF POLICY**

The Town of Chebeague Island administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, State of Maine Department of Health and Human Services (“DHHS”) GA policy and in 22 M.R.S. §§ 4301 *et seq.*

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours of receiving an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (*see section 5.6 of this ordinance*).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential as a matter of law (*see 22 M.R.S. §4306*).

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

## **SECTION 2. DEFINITIONS**

### Section 2.1—Common Meaning of Words

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Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

Section 2.2—Special Definitions

**Applicant.** A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an authorized application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

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

**Basic Necessities.** Food, clothing, shelter, fuel, electricity, non-elective essential medical services as prescribed by a physician, nonprescription drugs, basic telephone service where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant’s place of residence, and any other commodity or service determined essential by the municipality.

“Basic necessities” do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt
- Furniture
- Loan re-payments
- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees
- Late fees
- Key deposits
- Security deposits for rental property (except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S. § 4301(1)).

**Case Record.** An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant’s request for fair hearing and those fair hearing decisions.

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**Categorical Assistance.** All state and federal income maintenance programs.

**Claimant.** A person who has requested a fair hearing.

**Deficit.** An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in section 6.8 of this ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

**Disabled Person.** A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician or qualified mental health provider.

**Dwelling Unit.** A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (22 M.R.S. § 4301(2)).

**Eligible Person.** A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance (22 M.R.S. § 4301(3)).

**Emergency.** Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. At the municipality's option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the individual or municipality if not resolved immediately. (22 M.R.S. §§ 4301(4), 4308(2), 4310).

**General Assistance Program.** A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S. § 4301(5)).

**General Assistance Administrator.** A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as the town administrator, welfare director, caseworker, or third-party administrator (*see* 22 M.R.S. § 4301(12)).

**Household.** "Household" means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a



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landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The income of household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S. § 4301(6)).

**Income.** “Income” means any form of income in cash or in kind received by the household including:

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Payments received as an annuity, retirement or disability benefits
- Veterans’ pensions and/or benefits
- Retirement accounts or benefits
- Workers’ compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance program such as, TANF,
- Supplemental Security Income, Social Security and any other payments from governmental sources (unless specifically prohibited by any law or regulation)
- Court ordered support payments, e.g., child support
- Income from pension or trust funds
- Household income from any other source, including relatives or unrelated household members
- Student loans
- Rental income

The following items shall not be considered as income or assets that must be liquidated for the purposes of deriving income:

- 1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- 2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
- 3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality (22 M.R.S. § 4301(7)).

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- 4) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:
- Food Stamps (7 U.S.C. § 2017(b))
  - Li-Heap (42 U.S.C. § 8624)
  - Family Development Accounts (22 M.R.S. § 3762)
  - Americorp VISTA program benefits (42 U.S.C. § 5044 (f))
  - Property tax rebates issued under the Maine Residents Property Tax Program (AKA “Circuit breaker” Program) (36 M.R.S. § 6216)
  - Aspire Support Service Payments (10-144 CMR Chapter 323)

**Initial Applicants.** A person who has not applied for assistance in this or any other municipality are considered initial applicants.

**Just Cause.** A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility or from attending a scheduled fair hearing (22 M.R.S. § 4301(8), 4316-A(5)).

**Lump Sum Payment.** A one-time or typically nonrecurring sum of money issued to an applicant or recipient. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a 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. (22 M.R.S. § 4301 (8-A)).

**Material Fact.** A material fact is a fact that necessarily has some bearing on the determination of an applicant's general assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

**Maximum Levels of Assistance.** The amount of financial assistance for a commodity or service as established in section 6.8 of this ordinance or the actual cost of any such basic necessity, whichever is less.

**Misconduct.** For purposes of the GA work requirement (*see* 22 M.R.S. §4316-A) misconduct shall have the same meaning as misconduct defined in 26 M.R.S. §1043 (23). (*See Appendix I of this ordinance for the official definition of misconduct.*) Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.

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

**Municipality of Responsibility.** The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S. § 4301(9), 4307).

**Need.** The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance (22 M.R.S. §§ 4301(10), 4308).

**Net General Assistance Costs.** Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program (22 M.R.S. §§ 4301(11), 4311).

**Period of Eligibility.** The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month (22 M.R.S. § 4309(1)).

**Pooling of Income.** "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

**Real Estate.** Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S. § 4301(13)).

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

**Repeat Applicants.** All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

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

**Resources.** Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: "available" and "potential". Potential resources are programs, services, non-liquid assets, or trusts that

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typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual (22 M.R.S. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). At the discretion of the GA administrator a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s).

**30-Day Need.** An applicant's 30-day need is the sum of the household's prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household's actual 30-day cost for the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

**Unforeseen Repeat Applicants.** Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.

**Unmet Need.** An applicant's unmet need is the household's 30-day need as established by section 6.6 of the ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

**Work Requirements.** Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized by 22 M.R.S. § 4316-A

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to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

### SECTION 3. ADMINISTRATIVE RULES AND REGULATIONS

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

#### Section 3.1—Confidentiality of Information

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

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

**Information from Other Sources; Penalty.** Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S. § 2706).

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S. §§ 4314, 4315).

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

#### Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

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**Case Records.** The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- household applications
- budget sheets
- information concerning the types and amounts of assistance provided
- narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less)
- written decisions
- requests for fair hearings and the fair hearing authority decisions
- workfare participation records
- repayments to the municipality
- narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status
- client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information
- adjustments in aid, and suspension or termination of eligibility
- physician's documentation
- Supplemental Security Income (SSI) interim assistance reimbursement authorization forms
- vendor forms

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

**Retention of Records.** General assistance records shall be retained for a minimum of three full years. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred methods of destruction for confidential records, i.e., supervised shredding, burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

## SECTION 4. APPLICATION PROCEDURE

### Section 4.1—Right to Apply

**Who May Apply.** Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in section 4.9 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S. §4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S. §§ 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator.

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

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

**Applications Accepted; Posted Notice.** Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the DHHS toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S. § 4304).

### Section 4.2—Application Interview

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



Section 4.3—Contents of the Application

At a minimum, the application will contain the following mandatory information:

- a) applicant’s name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number;
- b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other household members for whom the applicant is seeking assistance;
- c) total number of individuals living with the applicant;
- d) employment and employability information;
- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant’s permission to verify information;
- j) signature of applicant and date.

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

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

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

**Application Requirements.** The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant’s eligibility for assistance. The administrator will fully

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explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

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

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-basic necessities; and
- the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

**Applicant Rights.** The administrator will inform all applicants of their rights to:

- review the municipal General Assistance ordinance and Maine General Assistance law;
- apply for assistance;
- receive a written decision concerning eligibility within 24 hours of applying for assistance;
- confidentiality;
- contact the DHHS;
- challenge the administrator's decision by requesting a fair hearing.

**Reimbursement/Recovery.** The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25, see Article VIII, "Recovery of Expenses") (22 M.R.S. §§ 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, "Recovery of Expenses".

**Section 4.5—Responsibilities of the Applicant at the Time of Application**

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The applicant has the responsibility at the time of each application to provide accurate, complete and current household information and verifiable documentation concerning:

- Income
- Resources
- Assets
- Employment
- Use of income
- Names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect household eligibility (22 M.R.S. §4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant:

- a) has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
- b) has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;
- c) has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and
- d) has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S. § §4316-A, 4317).

Section 4.6—Action on Applications

**Written Decision.** The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S. §§ 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

**Content.** The written decision will contain the following information:

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- a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- b) the period of eligibility if the applicant is eligible for assistance;
- c) the specific reasons for the decision;
- d) the applicant's right to a fair hearing; and
- e) the applicant's right to notify the DHHS if he/she believes the municipality has acted illegally (22 M.R.S. § 4321).

Section 4.7—Withdrawal of an Application

An application is considered withdrawn if:

- a) the applicant requests in writing that his or her application be withdrawn; or
- b) the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

Section 4.8—Temporary Refusal to Accept Application

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

- a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
- b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;
- c) When a third person applies for assistance on behalf of the applicant that person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S. § 4308).

Section 4.9—Emergencies

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An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S. § 4308).

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs to either the client or the municipality.

**Disqualification.** A person who is currently disqualified from receiving General Assistance due to a violation of sections 5.5, 5.6, 5.7, 5.8 or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S. § 4309(3)).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

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

- a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and
- b) the applicant submits documentation when possible, to verify his or her need. The administrator may contact at least one other person to confirm the applicant’s statements about needing emergency assistance. No further assistance will be authorized until the applicant’s eligibility is confirmed (22 M.R.S. § 4310).

**Telephone Applications.** If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator shall accept an application over the telephone (22 M.R.S. § 4304).

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

**Limitation on Emergency Assistance.** Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 M.R.S. §§ 4308(2) & 4315-A).

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

- a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.
- b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.
- c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

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- f) The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for general assistance.
- g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

Section 4.10—Residence

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

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

**Moving/Relocating.** The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after he/she moves provided the recipient remains eligible.

**Institutions.** If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution if the conditions of 22 M.R.S. § 4307 and §4313 are met. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution (22 M.R.S. § 4307(4)).

**Temporary Housing.** Hotels/motels and similar places of temporary lodging are considered institutions (*-above*) if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

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**Note:** Municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties (22 M.R.S. § 4307(4)).

**Disputes.** When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the DHHS in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality. (22 M.R.S. §§ 4307(5), 4307(6)).



## SECTION 5. ELIGIBILITY FACTORS

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

### Section 5.1—Initial Application

**Initial Application.** For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S. § 1043 (23)) (*see section 5.5 of this ordinance*). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S. § 4308(1)).

“Need” means that the applicant’s income (including prorated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in section 6.8 of this ordinance or the applicant’s 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

**Subsequent Applicants.** Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

### Section 5.2—Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)).

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under “Types of Income” at section 6.7 of this ordinance.

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause,

make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S. § 4317).

Section 5.3—Personal Property

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

At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking account per household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.

- b) **Tangible Assets.** No person owning or possessing personal property, such as but not limited to: a motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 2.2 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

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

- c) **Automobile Ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned "essential" reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable

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associated costs of maintenance as “misspent” income. General assistance for travel-related needs shall be computed in accordance with section 6.8(F)(7), (8) “Work Related/Travel Expenses.”

- d) **Insurance.** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.
- e) **Transfer of Property.** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred his or her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

Section 5.4—Ownership of Real Estate

- a) **Principal Residence.** For purposes of General Assistance solely, the applicant’s principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:
  - 1. The applicant has received General Assistance for the last 120 consecutive days; and
  - 2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
  - 3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and
  - 4. The land is not utilized for the maintenance and/or support of the household; and

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5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

If the above conditions are met, then the administrator may condition the receipt of future assistance on the applicant's good faith efforts to sell, or render saleable, land which could be used to provide necessary support for the applicant (e.g., the applicant owns 100 "excess" acres. Sale of 10 of the acres would provide for the necessary support and therefore not all the land need be sold at the present time.) Assistance shall not be denied during the time that the applicant is making a good faith effort to sell or render saleable the land in question.

Once the applicant ceases to receive assistance the obligations under this section shall also cease.

b) **Other Property.** If the applicant or dependents own real property other than that occupied as the principal residence, continued eligibility will depend on the applicant making a reasonable effort to:

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

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

Section 5.5—Work Requirement

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

**Employment; Rehabilitation.** All unemployed applicants and members of their households who are 16 years of age or older and who are not attending a full-time primary or secondary school intended to lead to a high school diploma will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and rehabilitative services,

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except as provided below (*see “Exemptions”*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A “suitable job” means any job, which the applicant is mentally and physically able to perform. “Available for work” means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

**Verification.** Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. “Pursuit of employment” means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers.

For the duration of any repeat applicant’s period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

**Ineligibility.** After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

- a) refuse to register for employment with the Maine Job Service;
- b) refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent work search and will be disqualified;
- c) refuse to accept a suitable job offer;
- d) refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e) fail to be available for work; or
- f) refuse to participate or participate in a substandard manner in the municipal work program (*see section 5.6*).

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**Ineligibility Due to Job Quit or Discharge for Misconduct.** No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct (*see Appendix I, 26 M.R.S. § 1043 (23) for the definition*) will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S. § § 4301(8), 4316-A (1-A)).

**Just Cause.** Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a) the applicant has a physical or mental illness or disability which prevents him/her from working;
- b) the work assignment pays below minimum wages;
- c) the applicant was subject to sexual harassment;
- d) the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;
- e) the applicant has no means of transportation to or from work or a training or rehabilitation program;
- f) the applicant is unable to arrange for necessary child care or care of ill or disabled family members; or
- g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S. § 4316-A(5)).

**Applicant's Burden of Establishing Just Cause.** If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S. § 4316-A).

**Eligibility Regained.** Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S. §§ 1043 *et seq.*, or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in section 5.6 of this ordinance, under "Eligibility Regained".

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**Dependents.** Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

- a) a dependent minor child;
- b) an elderly, ill, or disabled person; and
- c) a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S. § 4309(3)).

In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

**Exemptions.** The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

Section 5.6—Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S. § 4316-A(2)).

As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient in securing employment. The work requirement provisions found in section 5.5 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

**Consent.** Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves.

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The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

**Subtracting Value of Workfare Performed from Client's GA Debt.** Pursuant to 22 M.R.S. § 4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (*see Article VIII*). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.

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

- 1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.
- 2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.
- 3) In no case shall eligible persons performing work under this subsection replace regular municipal employees.
- 4) In no case will work performed under this subsection interfere with an eligible person's:
  - a) existing employment;
  - b) ability to follow up on a bona fide job offer;
  - c) attendance at an interview for possible employment;
  - d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
  - e) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by the DHHS or the Department of Labor.
- 5) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.
- 6) In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be



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required as a condition of receiving assistance to present a doctor’s statement detailing the extent of the disability or illness (22 M.R.S. § 4309).

If the administrator requires a doctor’s statement to verify an applicant’s illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor’s evaluation if the applicant has no means to pay for the exam. However in such a case the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S. § 4316(5)).

- 7) In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following “workfare first” policy.

**“Workfare First” Policy.** Under the authority of 22 M.R.S. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

- 1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
- 2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
  - a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
  - b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);
  - c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;
  - d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;

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- e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers; and
  - f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- 3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- 4) If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.
- 5) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned or excused at the discretion of the GA administrator.

**Work-Related Expenses.** A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S. § 4316.2(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his or her work assignment.

**Disqualification.** Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, will be ineligible for assistance for 120 days (22 M.R.S. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

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

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Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (*see section. 5.5, "Dependents"*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible.

If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked for the opportunity to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of ineligibility for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provided no opportunity to re-qualify.

Any recipient who intentionally causes damage to property, harasses or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

**Reports.** The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the DHHS (22 M.R.S. § 4316-A(2)).

Section 5.7—Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (*see section 2.2 for definition of "Resources"*). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving

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assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S. § 4317).

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

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the both parents are unknown; or
- 3) no parent will permit the minor to live in the parent's home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- 5) the DHHS determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his or her parents are financially capable of repaying the municipality (22 M.R.S. § 4319).

With regard to such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant not to be in need of general assistance for the reason that his or her needs can be provided by a legally liable relative.

**Mental or Physical Disability.** Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

**Written Notice; Disqualification.** The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day notice

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will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

**Forfeiture of Benefits.** Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture.

To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture—unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S. § 4317).

Section 5.7—Period of Ineligibility

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

**Work Requirement.** Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (*see sections 5.5, 5.6*). If an applicant/recipient is provided assistance and does not comply with the work requirement, the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

**Fraud.** People who commit fraud are disqualified from receiving assistance for a period of 120 days (*see section 6.4, "Fraud"*). The administrator shall give recipients written notice that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If the disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

## **SECTION 6. DETERMINATION OF ELIGIBILITY**

### **Section 6.1—Recognition of Dignity and Rights**

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his or her individual rights.

### **Section 6.2—Determination; Redetermination**

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

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

### **Section 6.3—Verification**

**Eligibility of applicant; duration of eligibility.** The overseer shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be redetermined.

**Applicant's responsibilities.** Applicants and recipients for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide the specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her:

- Need
- Income

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- Employment
- Use of income
- Expenses
- Assets & liabilities
- Use of available resources
- Household composition

**Initial Applicants.** A person who has not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants (*see below*). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).

**Repeat Applicants.** All applicants for general assistance that are not initial applicants are repeat applicants. The eligibility of repeat applicants must be determined on the basis of need and all other conditions of eligibility established by law and this municipal ordinance.

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

Repeat applicants are also responsible for providing any changes of information reported on previous applications including changes in his/her household or income that may affect his/her eligibility.

**Unforeseen Repeat Applicants.** Unforeseen repeat applicants are applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source who have unexpectedly become unemployed through no fault of their own or whose income and/or benefits (e.g., through an available resource) have ceased through no fault of their own. Such unforeseen repeat applicants may be considered initial applicants for purposes of verification requirements and misspent income if the administrator finds that imposing the general verification requirements and misspent income rules imposed on repeat applicants would be unreasonable or inappropriate.

**Overseer's responsibilities.** In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification

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only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

Appropriate sources, which the overseers may contact, include, but are not limited to:

- DHHS and any other department/agency of the state or non-profit organizations
- financial institutions
- creditors
- utility companies
- employers
- landlords
- physicians
- persons with whom the applicant/recipient is a cohabitant
- legally and non-legally liable relatives

Assistance will be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer cannot determine that eligibility exists based on information supplied by the applicant or others.

**Redetermination of eligibility.** The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is informed of any change in the recipient's circumstances that may affect the amount of assistance to which the recipient is entitled or that may make the recipient ineligible, provided that once a determination of eligibility has been made for a specific time period, a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

**Penalty for Refusing to Release Information.** Any person governed by 22 M.R.S. § 4314 who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any such person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S. §§ 4314(5), 4314(6), 4315).

Section 6.4—Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S. § 4315). False representation shall consist of any individual knowingly and willfully:



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- a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
- b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
- c) using general assistance benefits for a purpose other than that for which they were intended.

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

**Period of Ineligibility.** When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted.

The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

**Right to a Fair Hearing.** Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority (FHA) in accordance with Article VII of this ordinance. No recipient shall have his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the FHA may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S. § 4309(3)).

**Reimbursement.** If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

**Dependents.** In no event will the ineligibility of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

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Section 6.5—Period of Eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S. § 4309). Upon receiving a completed and signed application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis.

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant.

Although eligibility is determined on a 30-day basis, for reasons of administrative efficiency the administrator may elect to disburse an applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

Section 6.6—Determination of Need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S. § 4301(7)). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 6.8, whichever is less. The sum of these expenses, as calculated for a prospective 30-day period, is the applicant's 30-day need. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S. § 4308(2)) (*see section 4.9 of this ordinance*).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 6.8 (22 M.R.S. §§ 4301(10), 4305(3-B)). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's deficit.

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (*see Appendixes A-H of this ordinance*) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S. § 4305(3-A)).

**Income for Basic Necessities.** Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

**Use-of-Income Requirements.** The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for "unforeseen" repeat applicants (*See Section 6.3 of this ordinance*), repeat applicants may be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the cost of non-elective medical services as recommended by a physician which are not otherwise covered by medical entitlement, Hospital Free Care or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Items not considered to be basic necessities and thus will not be allowed in the budget computation include:

- Internet services
- Cable or satellite television
- Cellular phones
- Cigarettes/alcohol
- Gifts purchased
- Pet care costs
- Costs of trips or vacations
- Paid court fines
- Repayments of unsecured loans
- Legal fees
- Late fees
- Credit card debt.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income (22 M.R.S. § 4315-A). Those additional requirements will be applied in the following manner:

- 1) The administrator may require the applicant to use some or all of his or her income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities;
- 2) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them;
- 3) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income; and
- 4) If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

**Calculation of Income and Expenses.** When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of section 6.8. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (*see section 4.9*). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

**Consolidation of Deficit.** As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

- 1) The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
- 2) The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
- 3) The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance.

**Section 6.7—Income**

**Income Standards.** Applicants whose income exceeds the overall maximum level of assistance provided in section 6.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

**Calculation of Income.** To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in section 6.8, applicants will not be considered in need.

Exceptions will be made in emergency situations, which may necessitate that the maximum levels be exceeded (22 M.R.S. § 4308) (*see section 4.9 of this ordinance*). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

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

- a) **Earned income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will be deducted from an applicant's income (22 M.R.S. § 4301(7)).

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

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applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

Other programs whose income cannot be counted for purposes of GA eligibility include:

- Family Development Accounts (22 M.R.S. § 3762)
  - Americorp VISTA program benefits (42 U.S.C. § 5044 (f))
  - Property tax rebates issued under the Maine Residents Property Tax Program (so-called "Circuit breaker" program) (36 M.R.S. § 6216)
- c) **Court-Ordered Support Payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services' Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.
- d) **Income from Other Sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S. § 4301(7)).
- e) **Earnings of a Son or Daughter.** Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.

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- f) **Income from Household Members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another.
- g) **The Pooling or Non-Pooling of Income.** When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S. § 4301(12-A)).

One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs.

If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

- h) **Lump Sum Income.** A lump sum payment received by any GA applicant or recipient prior to the date of application for general assistance will be considered as income available to the household. However, verified required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below, will not be considered available income.

Where a household receives a lump sum payment at any time prior to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S. § 4301(7), (8-A)):

- 1) identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;

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- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S. § 4301(7), (8-A));
- 4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
- 5) divide the sum created in subsection (4) by the greater of the verified actual monthly amounts for all of the household's basic necessities or 150% of the applicable federal poverty guidelines. 22 M.R.S. § 4305(3-B)

This dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. (22 M.R.S. § 4308)

Section 6.8—Basic Necessities; Maximum Levels of Assistance

**Overall Maximum Levels of Assistance.** Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in Appendices B-H of this ordinance, an applicant's eligibility for general assistance will be first determined by subtracting his or her income from the overall maximum level of assistance designated in Appendix A for the applicable household size (22 M.R.S. § 4305 (3-B)). The difference yielded by this calculation shall be the applicant's deficit.

Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 4.9 of this ordinance.



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**Maximum Levels of Assistance for Specific Basic Necessities.** The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for rent, fuel, electricity, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance.

Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

A) **Food.** The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size.

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of Health and Human Services on or about October of each year. See Appendix B of this ordinance for the current year's food maximums.

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement

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verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

- B) **Housing.** The administrator will provide assistance with rent or mortgage payments that are reasonable and/or within the allowed maximum levels. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

**Rental Payments to Relatives.** The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S. § 4319(2)).

**Rental Payments to Non-Relatives.** When applicants are living in private homes with the owner or sharing dwelling units with people who are not pooling income or who are not legally liable relatives, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum (22 M.R.S. § 4301(6)).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with the most superior interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation (see section 6041(a) of Internal Revenue Code).

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

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**Mortgage Payments.** In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

- (1) the marketability of the shelter's equity;
- (2) the amount of equity;
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation;
- (5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;
- (6) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments;
- (7) the likelihood that the provision of housing assistance will prevent such dislocation; and
- (8) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide.

The administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance if after reviewing the above criteria the administrator determines that:

- (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or re-amortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and
- (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his or her home. If there is not sufficient

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equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his or her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

**Liens.** The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. In addition, a municipality may claim a lien against the owner of real estate for the amount of money spent by it to make capital improvements to the real estate. (22 M.R.S. § 4320). No lien may be enforced against a recipient except upon his or her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment or capital improvement it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage or capital improvement payment and all subsequent mortgage or capital improvement payments made on behalf of the same eligible person, plus interest and costs.

Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality may charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

**Property Taxes.** In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a) the property tax in question is for the applicant's place of residence;

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- b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) the applicant, with sufficient notice, applies for property tax relief through the Maine Resident Property Tax Program, when available.

**Housing Maximums.** The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the DHHS, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S. § 4305.

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

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 4.9.

Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds.

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S. § 4308(2)) (*see section 4.9 and 6.3*). The administrator

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will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

**Electricity Maximums for Households Without Electric Hot Water.** See Appendix D of this ordinance for the current year's electricity maximums.

**Electricity Maximums for Households that Use Electrically Heated Hot Water.** See Appendix D of this ordinance for the current year's electricity maximums.

**Non-Electric Utilities.** The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate.

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

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance.

See Appendix E of this ordinance for the current year's fuel maximums.

- E) **Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs and supplies for children under 5 years of age. See Appendix F of this ordinance for the current year's personal care and household supplies maximums.
- F) **Other Basic Necessities.** Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be

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granted only when these necessities cannot be obtained through the utilization of available resources.

- 1) **Clothing.** The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.
- 2) **Medical.** The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

- 3) **Hospital Bills.** In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a

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hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

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

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

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.
- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.
- 6) **Telephone Charge.** A payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.



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- 7) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (*see Appendix G for this year's maximum mileage allotment*). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- 8) **Travel Expenses.** In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.
- 9) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.
- 10) **Capital Improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:
  - 1) the failure to do so would place the applicant(s) in emergency circumstances;
  - 2) there are no other resources available to effect the capital repair; and
  - 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

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

Section 6.9—Burials; Cremations

**Funeral Director Must Give Timely Notice.** In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of the next business day following the funeral director's receipt of the body, whichever is earlier (22 M.R.S. §4313(2)). This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

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

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

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

**The Financial Responsibility of Certain Family Members.** Grandparents, parents, siblings, children and grandchildren of the deceased, who live in Maine or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses.

**Consideration of the Financial Responsibility of Family Members.** Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have

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an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

**Proration of Familial Responsibility.** A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives.

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

**Ten Days to Determine Eligibility.** The administrator may take up to 10 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 10-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 10-day period allowed by law to unreasonably delay the municipality's decision.

**The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute.** The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

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**Burial Expenses.** The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the maximum levels of assistance granted for the purpose of burials.

**Cremation Expenses.** In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator may issue general assistance for cremation services. See Appendix H for the maximum levels of assistance granted for the purpose of cremations.

Section 6.10—Notice of Decision

**Written Decision.** The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving a completed and signed application (22 M.R.S. § 4305(3)) (see *Article IV, section 4.6*).

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide to render a notice of “ineligibility” and provide the applicant with another application to submit as soon as is practicable for the applicant.

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

**Contents.** After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 4.6 of this ordinance, the notice will state that applicants:

- a) have the right to a fair hearing and the method by which they may obtain a fair hearing and;
- b) have the right to contact the DHHS if they believe the municipality has violated the law. The decision will state the method for notifying the department.

**Disbursement of General Assistance.** Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash (22 M.R.S. § 4305(6)).

## **SECTION 7. THE FAIR HEARING**

### Section 7.1—Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his or her authorized representative has the right to request a fair hearing (22 M.R.S. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision.

### Section 7.2—Method of Obtaining a Fair Hearing

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

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

- a) the decision on which review is sought;
- b) the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and
- c) the relief sought by the claimant.

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

**Scheduling the Fair Hearing.** Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

- a) be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
- b) confront and cross-examine any witnesses presented at the hearing against the claimant; and

- c) present witnesses on his or her own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case.

#### Section 7.3—The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the FHA, or, if designated, the board of appeals created under 30-A M.R.S. § 2691 (22 M.R.S. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as FHA must:

- a) not have participated in the decision which is the subject of the appeal;
- b) be impartial;
- c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination; and
- d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

#### Section 7.4—Fair Hearing Procedure

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

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;

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- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;
- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S. § 4322).

**Claimant's Failure to Appear.** In the event the claimant fails to appear, the FHA will send a written notice to the claimant that the GA administrator's decision was not altered due to the claimant's failure to appear. Furthermore, the notice shall indicate that the claimant has 5 working days from receipt of the notice to submit to the GA administrator information demonstrating "just cause," for failing to appear.

For the purposes of a claimant's failure to appear at a fair hearing, examples of "just cause" include:

- a) a death or serious illness in the family;
- b) a personal illness which reasonably prevents the party from attending the hearing;
- c) an emergency or unforeseen event which reasonably prevents the party from attending the hearing;
- d) an obligation or responsibility which a reasonable person in the conduct of his or her affairs could reasonably conclude takes precedence over the attendance at the hearing; or
- e) lack of receipt of adequate or timely notice; excusable neglect, excusable inadvertence, or excusable mistake.

If the claimant (or their attorney) establishes just cause, the request for the hearing will be reinstated and a hearing rescheduled.

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In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of 'fact' but may cross examine witnesses and make 'legal' arguments on behalf of the claimant.

Section 7.5—The Fair Hearing Decision

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

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;
- c) pertinent provisions in the law or general assistance ordinance related to the decision; and
- d) the decision and the reasons for it.

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

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

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



## **SECTION 8. RECOVERY OF EXPENSES**

**Recipients.** The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall “offset” the value of any workfare performed by a GA recipient, at a rate not less than minimum wage.

Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S. § 4318).

**Recipients Anticipating Workers’ Compensation Benefits.** The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers’ Compensation Act or similar law of any other state (22 M.R.S. § 4318, 39-A M.R.S. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers’ Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division.

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers’ Compensation. Any general assistance applicant who has applied for or who is receiving Workers’ Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required signature. The municipality shall also send a photocopy of that filing to the recipient’s Worker’s Compensation attorney, if known, the applicant’s employer or the employer’s insurance company, and, at the administrator’s discretion, to the Workers’ Compensation Board. The lien shall be enforced at the time any lump sum Workers’ Compensation benefit is issued.

**Recipients of SSI.** All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S. § 4318).

**Relatives.** The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S. § 4319). In addition, grandchildren, children,

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siblings, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S. § 4319).

**SECTION 9. SEVERABILITY**

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

**Sample General Assistance Program Ordinance Amendment to Incorporate the FY 2013  
“Temporary” Housing Assistance Limit**

Amend Article VI, Section 6.8 (B) of the General Assistance Ordinance adopted by the municipal officers in the Town/City of \_\_\_\_\_, to be effective on and after July 1, 2012, as follows:

- B) **Housing.** The administrator will provide assistance with rent or mortgage payments that are reasonable ~~and/or~~ within the allowed maximum levels and in accordance with the housing assistance limits and exceptions provided in Title 22, section 4308, subsections 1-A and 1-B. See Appendix C of this ordinance for the current year’s housing maximums. It is the applicant’s responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level of the number of rooms actually needed.

## GA Housing Maximums (Heated & Unheated Rents)

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

### Non-Metropolitan FMR Areas

<u>Aroostook County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	111	476	129	556	
1	111	476	131	565	
2	130	558	159	682	
3	167	718	202	870	
4	177	762	220	947	
<u>Franklin County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	117	503	136	583	
1	117	503	140	603	
2	137	591	166	715	
3	173	743	208	895	
4	258	1,108	301	1,293	
<u>Hancock County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	114	489	137	590	
1	126	543	155	667	
2	163	699	198	853	
3	220	948	264	1,136	
4	220	948	271	1,166	
<u>Kennebec County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	104	448	128	549	
1	109	469	138	593	
2	142	609	177	763	
3	184	792	228	980	
4	186	801	240	1,030	

**Non-Metropolitan FMR Areas**

<b><u>Knox County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	135	579	158	680
1	135	579	158	680
2	158	679	194	833
3	207	889	250	1,077
4	223	959	276	1,188
<b><u>Lincoln County</u></b>				
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	119	513	142	609
1	128	549	157	673
2	162	698	198	852
3	205	880	248	1,068
4	242	1,039	295	1,268
<b><u>Oxford County</u></b>				
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	95	408	118	509
1	101	427	128	551
2	122	524	158	678
3	176	757	220	945
4	229	985	282	1,214
<b><u>Piscataquis County</u></b>				
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	104	447	123	530
1	116	500	140	604
2	144	621	174	749
3	186	798	222	956
4	192	824	236	1,016
<b><u>Somerset County</u></b>				
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	120	517	141	606
1	121	519	147	631
2	143	615	175	753
3	202	869	241	1,038
4	202	869	241	1,038

**Non-Metropolitan FMR Areas**

<b><u>Waldo County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	116	497	138	592
1	127	547	156	671
2	149	639	184	793
3	211	908	255	1,096
4	215	926	269	1,155

<b><u>Washington County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	98	420	121	521
1	102	439	131	563
2	120	515	156	669
3	157	674	200	862
4	191	819	244	1,048

**Metropolitan FMR Areas**

<b><u>Bangor HMFA</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	125	539	149	640
1	135	583	164	707
2	173	744	209	898
3	219	944	263	1,132
4	255	1,097	308	1,326

<b><u>Penobscot Cty. HMFA</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	101	432	124	533
1	111	479	140	603
2	139	599	175	753
3	186	799	230	987
4	213	914	266	1,143

<b><u>Lewiston/Auburn MSA</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	96	411	119	512
1	112	484	141	608
2	144	618	180	772
3	187	803	230	991
4	210	901	263	1,130

**Appendix C**  
Effective: 10/01/16-09/30/17

**Metropolitan FMR Areas**

<b><u>Portland HMFA</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
<b>Bedrooms</b>	<b>Weekly</b>	<b>Monthly</b>	<b>Weekly</b>	<b>Monthly</b>
0	157	674	180	775
1	182	781	210	905
2	229	983	264	1,137
3	315	1,355	359	1,543
4	320	1,377	373	1,606
<b><u>York/Kittery/S. Berwick HMFA</u></b>				
<b>Bedrooms</b>	<b>Weekly</b>	<b>Monthly</b>	<b>Weekly</b>	<b>Monthly</b>
0	187	803	210	904
1	190	817	219	941
2	251	1,079	287	1,233
3	328	1,410	372	1,598
4	402	1,730	456	1,959
<b><u>Cumberland Cty. HMFA</u></b>				
<b>Bedrooms</b>	<b>Weekly</b>	<b>Monthly</b>	<b>Weekly</b>	<b>Monthly</b>
0	136	586	160	687
1	140	602	169	726
2	191	821	227	975
3	293	1,259	337	1,447
4	330	1,419	383	1,648
<b><u>Sagadahoc Cty. HMFA</u></b>				
<b>Bedrooms</b>	<b>Weekly</b>	<b>Monthly</b>	<b>Weekly</b>	<b>Monthly</b>
0	141	605	164	706
1	153	657	182	781
2	174	749	210	903
3	237	1,019	281	1,207
4	289	1,241	342	1,470
<b><u>York Cty. HMFA</u></b>				
<b>Bedrooms</b>	<b>Weekly</b>	<b>Monthly</b>	<b>Weekly</b>	<b>Monthly</b>
0	133	570	156	671
1	155	666	184	790
2	193	828	228	982
3	269	1,156	313	1,344
4	269	1,156	314	1,349



## GA Overall Maximums

Metropolitan Areas

COUNTY	Persons in Household				
	1	2	3	4	5*
<b>Bangor HMFA:</b> Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	703	777	981	1,227	1,437
<b>Penobscot County HMFA:</b> Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	596	673	836	1,082	1,254
<b>Lewiston/Auburn MSA:</b> Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	575	678	855	1,086	1,241
<b>Portland HMFA:</b> Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	838	975	1,220	1,638	1,717
<b>York/Kittery/S.Berwick HMFA:</b> Berwick, Eliot, Kittery, South Berwick, York	967	1,011	1,316	1,693	2,070
<b>Cumberland County HMFA:</b> Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	750	796	1,058	1,542	1,759

## Appendix A

Effective: 10/01/16-09/30/17

COUNTY	1	2	3	4	5*
<b>Sagadahoc HMFA:</b> Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	769	851	986	1,302	1,581
<b>York County HMFA:</b> Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	734	860	1,065	1,439	1,460

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

### Non-Metropolitan Areas

#### Persons in Household

COUNTY	1	2	3	4	5*
<b>Aroostook County</b>	609	624	750	948	1,037
<b>Franklin County</b>	636	662	783	973	1,383
<b>Hancock County</b>	653	737	936	1,231	1,277
<b>Kennebec County</b>	612	663	846	1,075	1,141
<b>Knox County</b>	743	745	916	1,172	1,299
<b>Lincoln County</b>	672	743	935	1,163	1,379
<b>Oxford County</b>	572	621	761	1,040	1,325
<b>Piscataquis County</b>	583	663	817	1,035	1,106
<b>Somerset County</b>	665	694	824	1,119	1,122
<b>Waldo County</b>	655	741	876	1,191	1,266
<b>Washington County</b>	584	633	752	957	1,159

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

## GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in *Appendices A, B, C, D, E, and F* are effective from **October 1, 2016 to September 30, 2017.**

### APPENDIX A - OVERALL MAXIMUMS

<u>County</u>	<u>Persons in Household</u>					
	1	2	3	4	5	6
<p><b>NOTE:</b> For each additional person add \$75 per month.</p> <p style="text-align: center;">(The applicable figures from Appendix A, <i>once adopted</i>, should be inserted here.)</p>						

### APPENDIX B - FOOD MAXIMUMS

<u>Number in Household</u>	<u>Weekly Maximum</u>	<u>Monthly Maximum</u>
1	45.20	194.36
2	89.60	385.28
3	119.80	515.14
4	151.00	649.30
5	194.90	838.07
6	233.90	1,005.77
7	257.20	1,105.93
8	283.00	1,216.90
<p><b>NOTE:</b> For each additional person add \$149 per month.</p>		

### APPENDIX C - HOUSING MAXIMUMS

<u>Number of Bedrooms</u>	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0				
1				
2				
3				
4				
<p>(The applicable figures from Appendix C, <i>once adopted</i>, should be inserted here.)</p>				

*FOR MUNICIPAL USE ONLY*

**APPENDIX D - UTILITIES**

**ELECTRIC**

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

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

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.70	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

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

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

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.08	\$86.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$37.30	\$160.00
6	\$41.00	\$176.00

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

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

**APPENDIX E - HEATING FUEL**

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

**FOR MUNICIPAL USE ONLY**

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

## **APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES**

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

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

### **SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5**

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

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

*FOR MUNICIPAL USE ONLY*

## Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan.

Number in Household	Weekly Maximum	Monthly Maximum
1	45.20	194.36
2	89.60	385.28
3	119.80	515.14
4	151.00	649.30
5	194.90	838.07
6	233.90	1,005.77
7	257.20	1,105.96
8	283.00	1,216.90

**Note: For each additional person add \$149 per month.**

Town of Chebeague Island Code of Ordinances  
Chapter 17- Land Use & Planning  
Article VII- Growth Management

**Growth Management**  
**Ordinance**

of the Town of Chebeague Island  
**Maine**

Adopted by the Town Meeting: July 1, 2007  
Effective: July 1, 2007

Attest:



Town Clerk

Seal

SUSAN D. CAMPBELL  
Notary Public, Maine  
My Commission Expires May 22, 2014

## GROWTH MANAGEMENT ORDINANCE

### SECTION 101. TITLE

This Ordinance shall be known as the “Growth Management Ordinance of the Town of Chebeague Island, Maine” and shall be referred herein as the “Ordinance.”

### SECTION 102. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and 30-A M.R.S. § 3001.

### SECTION 103. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of the Town of Chebeague Island by placing limitations on residential development and

- 103.1. Providing for the immediate housing needs of the existing residents of the Town of Chebeague Island.
- 103.2. Ensuring fairness in the allocation of Building Permits.
- 103.3. Planning for continued residential population growth of the Town of Chebeague Island which would be compatible with orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, waste disposal and health services.
- 103.4. Avoid a situation in which the rapid development of new residences could outpace the town’s capability to expand its services.

### SECTION 104. DEFINITIONS

**Building Permit:** A permit is defined by and issued in accordance with the Town of Chebeague Island Building Code and Section 602.1 of the Town of Chebeague Island Zoning Ordinance.

**Calendar Year:** The period of time comprised of fifty-two (52) weeks commencing on January 1 and extending through December 31 on any given year.



**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

**Family:** A person or persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging residence, hotel or motel.

**Growth Permit:** A permit issued, in accordance with the provisions of this Ordinance, by the CEO to allow the establishment of a new dwelling unit.

**Manufactured Housing:** A fabricated pre-assembled dwelling unit designed to be transported after fabrication and to be used as living quarters. The term “Manufactured Housing” may include the term “Modular Home” and “Mobile Home”, except that the fabricated single-family modular home is assembled on the building site on a permanent foundation.

**Person:** A person shall be defined to include an individual’s spouse, parents, siblings and members of his or her immediate family unless the spouse, parents, sibling or immediate family member can demonstrate that the person seeking the Growth Permit owned the title to the property that is the subject of the Growth Permit independently of his spouse, parents, siblings or immediate family members as of May 1, 2000.

**Subdivision:** A subdivision shall be defined by 30-A M.R.S. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Town of Cumberland or Town of Chebeague Island Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review shall not be considered a lot in a subdivision.

## **SECTION 105. APPLICABILITY**

This Ordinance shall apply to all new dwelling units (including manufactured housing) within the Town of Chebeague Island. No new dwelling unit which fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Chebeague Island.

## **SECTION 106. EXEMPTIONS**

This Ordinance shall not apply to the following:

- 106.1 The repair, replacement, reconstruction or alteration of any existing building or structure provided the number of dwelling units is not increased, regardless of the need for a variance.
- 106.2 Accessory Apartments as allowed in Section 408.1 of the Town of Chebeague Island Zoning Ordinance.
- 106.3 Lots in subdivisions approved by the Cumberland Planning Board or equivalent body prior to July 1, 2000.

## **SECTION 107. ADMINISTRATION**

### 107.1. Maximum Number of Dwelling Units

- 107.1.1. Unless and / or until this Ordinance is amended pursuant to Section 112, the maximum number of new Growth Permits issued from January 1, 2008 to December 31, 2008 and annually thereafter, shall be four (4), plus two (2) additional Growth Permits that shall be for affordable housing constructed by a not for profit organization.
- 107.1.2. No more than twenty (20) permits over a 5 year period, beginning on July 1, 2001, shall be issued.
- 107.1.3. All Growth Permits shall be issued in accordance with the issuance procedure described in Section 107.3 of this Ordinance.

### 107.2. Application Procedure

- 107.2.1. All Growth Permit Applications shall be submitted in person to the Code Enforcement Officer or his/her assistant or agent (hereinafter the CEO) during normal office hours on the form designated Growth Permit Application. No Growth Permit Applications shall be accepted by mail.
- 107.2.2. The CEO shall indicate on the Application form the date and time the Growth Permit Application was received and provide the applicant with a receipt. The Applications shall be reviewed in the order in which they were received. Only complete Applications will be accepted.

107.2.3. The Growth Permit Application shall be accompanied by a non-refundable administrative fee in the amount of One Hundred (\$100.00) Dollars, documentation establishing the applicant's right, title and interest to the property, and one copy of a subsurface wastewater disposal system application form (HHE-200 or equivalent).

107.2.4. A separate Application shall be required for each dwelling unit.

### 107.3. Issuance Procedure

107.3.1. Growth Permit Applications shall not be accepted by the CEO until on or after the effective date of this Ordinance. Growth Permit Applications shall be on file with the CEO. From the time of the adoption of this Ordinance onward, Applications will be accepted, and Growth Permits issued, as provided for in this Section.

107.3.2. Growth Permits shall be available on a first-come, first-served basis.

107.3.3.1. The CEO shall notify an applicant once the applicant is entitled to have a Growth Permit issued. Once the CEO has notified the applicant that the applicant is entitled to have a Growth Permit issued, the applicant shall have thirty (30) days to accept the Growth Permit from the CEO, and the CEO shall notify the applicant in writing of the date of the expiration of said thirty (30) days. If the applicant shall fail to accept the Growth Permit, then the Growth Permit shall expire.

107.3.3.2. Expired Growth Permits shall be available for reissue during the same calendar year.

107.3.3.3. The CEO shall issue Growth Permits for all complete Applications if they do not outnumber the supply of Growth Permits.

107.3.3.3.1. If Applications exceed supply for any given year, Permits shall be issued on the basis of the order complete Applications were received by the CEO. Those on the list who do not get a Permit for that year shall have first priority to get a Permit in the next year.

107.3.3.4. With respect to Growth Permits sought for property located within a subdivision, no more than one (1) Growth Permit shall be issued during any calendar year in a single subdivision. Corporations shall be treated as the same corporation for purposes of this Ordinance if they share common directors (or their spouses) and / or shareholders (or their spouses) of 10% or more of the stock. Any person or corporation

which is a partner in a partnership shall also be considered the same person as the partnership.

With respect to Growth Permits sought for property not located within a subdivision, no more than one (1) Growth Permit shall be issued during any calendar year to any one person, partnership or corporation.

107.3.3.5 All Growth Permits shall be issued on the basis of the calendar year (January 1 through December 31).

107.3.3.6. If, at the end of any calendar year, there are any unissued Growth Permits still available, they shall not be carried over to the next year, except as permitted in Section 107.5.

#### 107.4. Replacement with building permit and expiration

107.4.1. A Growth Permit shall be replaced by a building permit for a dwelling on the specific site for which the Growth Permit was issued. A Growth Permit which has not been replaced with a building permit within 90 days of Growth Permit approval by CEO shall be considered expired and must be resubmitted for consideration. Resubmitted Growth Permit Applications will not have any priority over other Growth Permit Applications. The expiration of the building permit shall be in conformity with the Town of Chebeague Island Building Code.

#### 107.5. Transferability

Growth Permits are not transferable. They shall be valid for construction on the lot specified on the Application and by the Applicant; provided however, that such valid Permits shall be transferable to new owners of the lot should the property change hands. If a Permit is transferred, the date of issuance remains unchanged.

### **SECTION 108. CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

**SECTION 109. SEPARABILITY**

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

**SECTION 110. EFFECTIVE DATE**

The effective date of this Ordinance shall be July 1, 2007, but the total number of Growth Permits available through June 30, 2008 shall be limited by Section 107.1 hereof.

**SECTION 111. REVIEW PROCEDURE**

This Ordinance shall be reviewed by the Board of Selectmen in 2009 to assess the efficacy of the Ordinance. The Board shall make recommendations to the Town Meeting for any necessary changes to the ordinance. The ordinance shall be reviewed by the Planning Board not less frequently than once every three years, to ensure that the annual maximum growth rate has not become inconsistent with the Town's capital program requirements to establish, maintain, or enlarge needed public facilities and services. Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 112.

**SECTION 112. AMENDMENTS**

112.1. An amendment to this Ordinance may be initiated by one of the following:

- 112.1.1 The Planning Board.
- 112.1.2 The Board of Selectmen.
- 112.1.3 By citizen petition, pursuant to 30-A M.R.S. § 2522 or similar provision.

**SECTION 113. VIOLATIONS**

113.1. A violation of this Ordinance shall be deemed to exist when any person, partnership or corporate entity engages in any construction activity directly related to the erection or placement of a dwelling unit, upon any land within the Town without first having obtained a Growth Permit from the CEO.

113.2. If a dwelling unit has been constructed or placed, without a Growth Permit, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such dwelling unit until such permit has been duly issued.

#### **SECTION 114. NOTICES OF VIOLATIONS; LEGAL ACTION**

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Board of Selectmen of the violation. If the notice does not result in the correction of the violation, the Board of Selectmen may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Board of Selectmen is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

#### **SECTION 115. PENALTIES**

115.1. Any person owning or controlling the use of any dwelling unit being constructed or occupied in violation of this chapter shall be liable to be fined not less than \$100 or more than \$2,500 for each day such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CEO.

115.2. If a dwelling unit has been built in violation of this chapter and is then occupied, for residential use, the owner may be fined as provided in Section 14 A. of this Ordinance.

#### **SECTION 116. APPEALS**

116.1. The Board of Adjustment and Appeals in accordance with Section 603 of the Zoning Ordinance of the Town of Chebeague Island, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.

Town of Chebeague Island Code of Ordinances  
Chapter 21 – Roads and Paths  
Article I – Traffic and Parking Ordinance


## OFF – HIGHWAY VEHICLE ORDINANCE

of the Town of Chebeague Island  
MAINE

Pursuant to 12 M.R.S.A. § 13157-A

Adopted by Town Meeting Effective:  
January 9<sup>th</sup>, 2010

Attest:

  
Town Clerk

Seal:

**Town of Chebeague Island  
Off-Highway Vehicle Ordinance**

**Section 1. Title.**

This Ordinance shall be known as and may be cited as the “Off-Highway Vehicle Ordinance in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

**Section 2. Purpose.**

The purpose of this Ordinance is to assure the safe operation of off-highway vehicles (OHVs) on designated public ways and the safe operation of golf carts on public ways. Nothing in this Ordinance replaces the applicable State laws that apply to the operation of any vehicles covered by this Ordinance.

**Section 3. Definitions.**

As used in this section, the words and phrases herein shall have the following meaning, unless the context otherwise requires:

(a) **Golf Cart.** “Golf cart” means a motor vehicle that is originally designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. “Golf cart” does not include an all-terrain vehicle (ATV) as defined in Title 12, section 13001.

(b) **Off-Highway Vehicle or OHV.** “Off-highway vehicle” or “OHV” means any vehicle designed primarily for off-highway use, including all-terrain vehicles (ATVs), utility vehicles, and mini-trucks, that is a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. “Off-highway vehicle” or “OHV” includes, but is not limited to, a multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this chapter, “off-highway vehicle” or “OHV” does not include a single or multi-track vehicle; an amphibious machine; snowmobile; an airmobile; a construction or logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

(c) **Public Way.** “Public way” means a way, owned and maintained by the municipality, over which the general public has a right to pass. For the purposes of this ordinance, it means a way commonly used for vehicular traffic and does not mean a public right-of-way primarily used as a footpath.



**Section 4. General Requirements.**

All vehicles operated on public ways under this Ordinance must comply with the following requirements:

- (a) The operator of the vehicle must carry proof of proper insurance,
- (b) The operator of the vehicle must possess a valid driver's license to operate on public ways,
- (c) The vehicle must be properly registered to operate on Public Ways:
  - i. Off-highway vehicles or OHVs must be registered with the Maine Department of Inland Fisheries and Wildlife.
  - ii. Golf carts must display a registration sticker issued by the Town of Chebeague Island.

**Section 5. Operation of all OHVs:**

For the purpose of this Ordinance:

- (a) Operating OHV on public way. An OHV must travel in the same direction as motor vehicle traffic on a designated public way.
- (b) Permission required. A person may not operate an OHV on the land of another without the permission of the landowner or lessee, except as one would travel via automobile or motorcycle (e.g. on a driveway); unless the operator has obtained prior permission from the landowner to travel upon that person's land. Permission is presumed on designated municipality-approved OHV public ways or in areas open to OHVs by landowner policy.
- (c) Stop and identify requirement. Persons operating OHVs upon the land of another shall stop and identify themselves upon the request of the landowner or the landowner's duly authorized representative. Persons operating OHVs on any public way or private property shall stop and identify themselves upon the request of a law enforcement official.
- (d) Reckless operating on OHV. A person may not operate an OHV in such a way as to recklessly create a substantial risk of serious bodily injury to another person. Nor may a person operate an OHV so as to endanger any person or property.
- (e) Reasonable and prudent speed. A person may not operate an OHV except at a reasonable and prudent speed for the existing conditions.
- (f) Protective headgear. Any person under the age of 18 who operates, or is a passenger on an ATV or other type of OHV that is not equipped with roll-over protection and passenger restraints, must wear protective headgear.

(g) Required use of OHV lights. OHV headlights and taillights shall be used during the period from one-half hour after sunset to one-half hour before sunrise; and at any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernable for a distance of 500 feet ahead.

(h) Operation in roadways for laned traffic.

- i. Off-highway vehicles operated in roadways for laned traffic are entitled to the full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any OHV of the full use of a lane.
- ii. The operator of an OHV shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
- iii. No person shall operate an OHV between lanes of traffic or between adjacent lines or rows of vehicles.
- iv. Off-highway vehicles shall not be operated more than two abreast in a single lane.
- v. This subsection shall not be applied to law enforcement officers in the performance of their official duties.

#### **Section 6. Operation of all Golf Carts.**

For the purpose of this Ordinance:

(a) Operating golf cart on public way. A golf cart must travel in the same direction as motor vehicle traffic on a designated public way. Golf carts shall keep to the extreme right of the roadway.

(b) Stop and identify requirement. Persons operating golf carts on any public way shall stop and identify themselves upon the request of a law enforcement official.

(c) Yield right-of-way. A person shall yield the right-of-way to all other types of vehicular traffic while operating a golf cart on a public way.

(d) Reckless operating of golf cart. A person may not operate a golf cart in such a way as to recklessly create a substantial risk of serious bodily injury to another person. Nor may a person operate a golf cart so as to endanger any person or property.

(e) Reasonable and prudent speed. A person may not exceed a speed of ten (10) miles per hour while operating a golf cart on a public way.

(f) Required use of golf cart lights. Golf cart headlights and taillights shall be used during the period from one-half hour after sunset to one-half hour before sunrise; and at any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other

persons, vehicles and other objects are not clearly discernable for a distance of 500 feet ahead. Golf carts not equipped with suitable headlights and taillights shall be operated only in adequate daylight.

(g) Cautionary Equipment. All golf carts shall be equipped with an auditory warning device, a visual safety flag on a whip antenna of at least six (6) feet in height, and slow vehicle markings.

#### **Section 7. Violations and Penalties.**

It shall be unlawful for any person to violate any provisions of this ordinance. Any person, firm or corporation violating any provision of this ordinance shall be punished by a fine of \$25 dollars for the first offense, and \$100 for each offense thereafter.

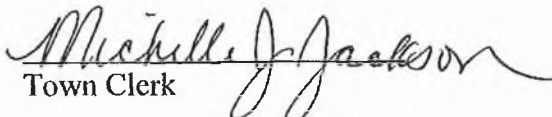
#### **Section 8. Severability.**

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

**PACE ORDINANCE**  
**of the Town of Chebeague Island, Maine**

Adopted by the Special Town Meeting:  
February 12, 2011

Attest:

  
Town Clerk

Seal:

**MODEL PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

**Administration by the Efficiency Maine Trust**

**PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.**

**PREAMBLE**

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

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

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

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

**ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

**§ XX-1 Purpose**

By and through this Chapter, the Town of Chebeague 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 Chapter/Ordinance to be in conformity with federal and State laws.

**§ XX-2 Enabling Legislation**

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

## ARTICLE II - TITLE AND DEFINITIONS

### § XX-3 Title

This Chapter/Ordinance shall be known and may be cited as “The Town of Chebeague Island Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

### § XX-4 Definitions

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/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 Chebeague 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 the agreement, other than mortgage holders.
4. **PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
5. **PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

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

### **ARTICLE III - PACE PROGRAM**

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

and the Municipality shall be responsible for administration of loans made from those other funding sources.

#### **ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST**

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

#### **ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY**

**1. Program Administration**

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

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



vii. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

**B. Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

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

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

**2. Liability of Municipal Officials; Liability of Municipality**

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

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

Town of Chebeague Island Code of Ordinances  
Chapter 17 — Land Use & Planning  
Article V — Administration

**PLANNING BOARD**

**ORDINANCE**

**of the Town of Chebeague Island  
MAINE**

Adopted by the Town Meeting: July 1, 2007  
Effective: July 1, 2007  
Amended June 11, 2016

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Attest:  
Town Clerk  
Seal:

**SECTION 101. PLANNING BOARD**

**A. Establishment of Planning Board**

The Planning Board of the Town of Chebeague Island is hereby created pursuant to 30-A M.R.S.A. § 3001.

**B. Appointment, Qualifications, Tenure and Vacancies**

1. The Planning Board shall consist of seven (7) members appointed by the Board of Selectmen. They shall serve without compensation.
2. Members shall be residents of the Town of Chebeague Island. The Selectmen may establish additional, uniform and lawful criteria for appointment to the Planning Board. Four or more members of the Board shall constitute a quorum of the Board. A decision of a quorum of the Board made in conformance with applicable law shall be valid and binding.
3. Members of the Board of Selectmen and of the Board of Adjustment and Appeals shall not serve as members of the Planning Board.
4. The term of office of each regular member shall be three years. The terms of office shall be staggered with the terms of office of two members expiring in one year, the terms of office of three members expiring in the next year, and the terms of office of two members expiring in the third year.
5. Vacancies may occur by reason of resignation, death or removal from the Town or State. Vacancies shall be filled by the Board of Selectmen for the unexpired term.
6. If a member fails to attend two regular or special, meetings in a row without providing an excuse, a majority of the Board may certify this failure to the Selectmen, asking them to replace the member. A member may also be removed for cause after notice and hearing by the Board of Selectmen.

**C. Organization and Rules**

1. The Board shall annually elect a Chairman and a Vice-Chairman. Officers shall serve one-year terms and shall be eligible for re-election.
2. Four members of the Board shall constitute a quorum.
3. The Board shall adopt rules and regulations for the transaction of its business.

Town of Chebeague Island Code of Ordinances  
Chapter 17 — Land Use & Planning  
Article V — Administration

4. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the other members present.
5. All records of the Board shall be public records and may be inspected at reasonable times.
6. All meetings shall be held pursuant to public notice and be held in a public building.

**D. Duties**

The Planning Board shall have the following duties and powers:

1. The Board shall prepare a Comprehensive Plan for the Town of Chebeague Island in accordance with the provisions of 30-A MRSA 4323 and 4326. This plan shall be recommended for adoption to the Town Meeting under 30-A MRSA 4324.9.
2. The Board shall periodically review the land use ordinances of the Town of Chebeague Island and submit to the Town Meeting proposed amendments thereto, consistent with said Comprehensive Plan.
3. The Board shall investigate and make reports and recommendations upon such planning and land use matters as it may deem appropriate or as may be formally referred to it by the Town Meeting, the Board of Selectmen, other Town committees or the Town Administrator.
4. The Board shall give the public ample opportunity to be heard concerning the development of the Comprehensive Plan, land use ordinances and other land use policies.
5. The Board shall serve under 30-A MRSA 4403 as the municipal reviewing authority of all requests for subdivision approval. The Board shall approve the naming of all streets in proposed subdivisions.
6. The Board shall serve under the Zoning Ordinance of the Town of Chebeague Island, as the reviewing authority for all requests for site plan approval.
7. The Board shall, with the Town Administrator, develop and review the Capital Improvement Plan and the annual capital budget.
8. The Board shall annually submit a report of the Planning Board's actions to the Town Administrator.

**E. Assistance from Other Town Officials**

The Town Administrator and the Code Enforcement Officer shall provide such technical, administrative and clerical assistance as required by the Planning Board. The Board may request the Town Administrator to engage such professional help as it may require to carry out its duties, subject to the availability of funds appropriated therefore by the Town Meeting. The Board shall annually, through the Chairman, request operating appropriations in a manner prescribed by the Administrator.

**F. Appeal**

An appeal from a decision of the Planning Board shall be taken directly to Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure.

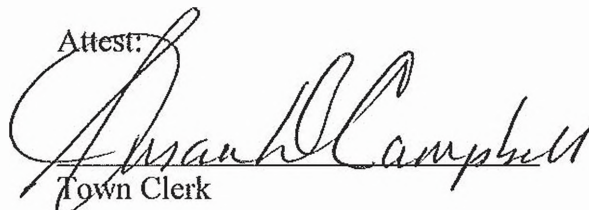
**G. Savings Provision**

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

**RESTRICTING VEHICLE WEIGHT  
ON POSTED WAYS  
ORDINANCE**

**of the Town of Chebeague Island  
MAINE**

Adopted by the Town Meeting:  
Effective: 20 November 2010

Attest:  
  
Town Clerk

Seal:

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Restricting Vehicle Weight on Posted Ways Ordinance in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to prevent damage to town ways and related structures in the Town of Chebeague Island which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and related structures, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

SECTION 103. DEFINITIONS

- a) **Related Structures.** The term ‘related structures’ shall refer to any and all structures that are considered to be part of the road system in the Town of Chebeague Island and including but not limited to: bridges and culverts, public parking areas, water access, the Stone Wharf, and access ways to Chandler’s Pier.
- b) **Temporary Exemption.** A temporary exemption may be granted in accordance with Section 105 of this ordinance. A temporary exemption is defined as one traverse of the posted way or related structure. A traverse may be considered the trip both to and from a destination for a specific purpose.
- c) The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance.
- d) Any words not otherwise defined therein shall be given their common and ordinary meaning.

SECTION 104. RESTRICTIONS AND NOTICES

The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the road system, and designate the town ways and related structures to which the restrictions shall apply.

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

The notice shall contain, at a minimum, the following information: the name of the way(s) or related structure(s), the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers or their designee. The notice shall be conspicuously posted at

each end of the restricted portion of the way or related structure in a location clearly visible from the traveled way.

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

#### SECTION 105. EXEMPTIONS

The following vehicles are exempt from this ordinance:

- a) Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.
- b) Any two-axle vehicle while delivering any form of home heating fuel;
- c) Any vehicle while engaged in highway maintenance, solid waste hauling or repair under the direction of the State or Town;
- d) Any emergency vehicle (such as fire fighting apparatus or ambulances) while responding to an emergency;
- e) Any school transportation vehicle while transporting students;
- f) Any public utility vehicle while providing emergency service or repairs;
- g) Any vehicle detoured by a law enforcement officer at an accident scene; and
- h) Any owner or operator granted a temporary exemption by the road commissioner.

The owner or operator of any vehicle may request a temporary exemption by written request to the road commissioner. In determining whether to allow a temporary exemption, the road commissioner shall consider the following factors:

- a) the gross registered weight and the type of vehicle;
- b) the current and anticipated condition of the way or related structure;
- c) the number and frequency of vehicle trips proposed;
- d) the cost and availability of materials and equipment for repairs;
- e) the extent of use by other exempt vehicles; and
- f) such other circumstances as may, in their judgment, be relevant.

The road commissioner may require the applicant to tender cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage incurred as a result of granting a temporary exemption.

For cases where restrictions are imposed to protect roads during spring thaw conditions the criteria of ambient temperatures below 32°F and no visible unfrozen water on the surface or in road defects may be used to grant a temporary exemption.



The road commissioner shall record all exemptions granted stating the applicants name, vehicle weight, date and times of the temporary exemption, public ways involved and the reason for the temporary exemption.

**SECTION 106. ADMINISTRATION AND ENFORCEMENT**

This Ordinance shall be administered and may be enforced by the municipal officers, the road commissioner, code enforcement officer or law enforcement officer with jurisdiction in the Town of Chebeague Island.

**SECTION 107. PENALTIES**

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or related structure and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

**SECTION 108. AMENDMENTS**

This Ordinance may be amended by the municipal officers or Town Meeting at any properly noticed meeting.

**SECTION 109. SEVERABILITY**

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

# **ROAD PLAN COMMITTEE ORDINANCE**

**of the Town of Chebeague Island  
MAINE**

Adopted by the Board of Selectmen:  
Effective: November 16, 2016

Attest:

\_\_\_\_\_  
Town Clerk

Seal:

Town of Chebeague Island Code of Ordinances  
Chapter 21 – Roads & Paths  
Article II – Road Plan Committee Ordinance

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Road Plan Committee ordinance in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to establish a standing committee in the Town of Chebeague Island, Maine to be known as the Road Plan Committee and shall be referred to herein as “the Committee”. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001.

SECTION 103. ORGANIZATION AND ADMINISTRATION

- a) **Membership.** The Committee shall consist of three to five members who shall be appointed by the municipal officers. No technical experience is required but members must commit to understanding MDOT guidance.
- b) **Appointment.** The Committee shall be appointed by the Board of Selectmen and serve at the Board’s pleasure.
- c) **Term.** Members shall serve for staggered terms of 3 years.
- d) **Chairman.** The Committee shall elect a Chairman from among its members. The Chairman shall call meetings as required by this Ordinance, or as necessary or when so requested by a majority of members or the municipal officers. The Chairman shall preside at all meetings.
- e) **Secretary.** The Committee shall elect a Secretary. The Secretary shall maintain a record of all proceedings including all correspondence of the Committee and regularly submit the records to the Town Clerk.
- f) **Notice.** All meetings shall be held in a public place and scheduled through the Town Administrator who shall provide reasonable notice. The committee may also convene in a vehicle for the purpose of conducting a road survey as prescribed in this Ordinance. Road survey tasks do not require notice but the dates, participants and collected data must be documented in the Road Plan.
- g) **Quorum.** A quorum necessary to conduct business shall consist of at least a majority of members. Road survey tasks require full committee participation.
- h) The **municipal officers and town staff** shall cooperate with and provide the Committee with such information as may be reasonably necessary and available to enable it to carry out its duties under this Ordinance. The town staff shall also provide assistance updating electronic records as necessary.
- i) All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. Sections 401-410.

SECTION 104. DUTIES OF THE COMMITTEE

- a) Evaluate the Town’s Road system and submit an updated Road Plan to the Board of Selectmen by the first regular Selectmen’s meeting in December of each year.

Town of Chebeague Island Code of Ordinances  
Chapter 21 – Roads & Paths  
Article II – Road Plan Committee Ordinance

- b) The Road Commissioner shall review and submit the plan to the Board of Selectmen at the first scheduled budget meeting for capital planning with a recommendation that takes the plan into consideration.

SECTION 105. ROAD PLAN

- a) The primary purpose of the Road Plan is to establish a network wide maintenance plan to perpetually maintain all town roads in the most cost effective use of capital and operational resources. The plan should assist the Town in the following:
  - 1. Inventory all Town ways,
  - 2. Survey the road system using Maine DOT methodologies,
  - 3. Keep all road surfaces in good repair to minimize maintenance costs,
  - 4. Recommend work for town to undertake in the next construction season,
  - 5. Identify drainage problems and potential solutions for the recommended work areas,
  - 6. Recommend financing to support the recommendations.

SECTION 106. AUTHORITY OF THE COMMITTEE

The Committee's authority shall be advisory only. The Board of Selectmen may use any or all parts of the Road Plan at their discretion.

SECTION 107. AMENDMENTS

This Ordinance may be amended by the municipal officers or Town Meeting at any properly noticed meeting.

SECTION 108. SEVERABILITY


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

# SHELLFISH CONSERVATION ORDINANCE

of the Town of Chebeague Island  
MAINE

Adopted by the Town Meeting:  
Effective: June 6, 2015  
Amended: June 11, 2016

Attest:

  
\_\_\_\_\_  
Town Clerk

Seal:

## TITLE

This Ordinance shall be known as and may be cited as the “Shellfish Conservation in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

### Section 101. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to establish a shellfish conservation program for the Town of Chebeague Island’s coastal waters, which will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means that may include:

- a) Licensing.
- b) Limiting the number of shellfish harvesters.
- c) Restricting the time and area where digging is permitted.
- d) Limiting the minimum size of clams taken.
- e) Limiting the amount of clams taken daily by a harvester.
- f) Establishing the Town of Chebeague Island as an interested part in aquaculture activities in accordance with State of Maine law.

This Ordinance is adopted pursuant to 12 M.R.S.A. § 6671. This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.

This Ordinance shall remain in effect until repealed by the Town of Chebeague Island, or rescinded by the Department of Marine Resources.

### Section 102. DEFINITIONS

- a) Municipality. The term ‘Municipality’ shall refer to the Town of Chebeague Island.
- b) Non-Resident. The term "non-resident" means anyone not qualified as a resident under this ordinance.
- c) Resident. The term "resident" refers to a person who has been domiciled in the Town of Chebeague Island for at least three months prior to the time his claim of such residence is made. The term “resident” also includes persons who own real property in the Town of Chebeague Island.
- d) Shellfish, Clams, Intertidal Shellfish Resource. Shellfish, Clams, Intertidal Shellfish Resource When used in the context of this ordinance the words "shellfish", "clams", intertidal shellfish resource shall mean soft-shell clams (*Mya arenia*), surf clams and quahogs.
- e) Hand Implements. The term ‘hand implements’ shall refer to implements such as clam hoes or a gloved hand.
- f) The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance.
- g) Any words not otherwise defined therein shall be given their common and ordinary meaning.

### Section 103. SHELLFISH CONSERVATION COMMITTEE

The Shellfish Conservation Program for the Town of Chebeague Island will be administered by the Shellfish Conservation Committee, consisting of five (5) to seven (7) members. The Selectmen will appoint the members. The Committee’s responsibilities include:

- a) Recommending annually - after consultation with the Department of Marine Resources - the number of shellfish digging licenses to be issued. This recommendation shall be sent to the Board of Selectmen, who (after approval or revision) will send to the Town Clerk for implementation.
- b) Surveying the clam-flats to maintain current information on shellfish resources.
- c) Reviewing annually the status of the resource using the results of clam flat, harvester or dealer surveys and other sources of information and preparing in conjunction with and subject to the approval of the Department of Marine Resources, a plan for implementing conservation measures.
- d) Submitting to the Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
- e) Keeping this Ordinance under review and making recommendations for its amendments.
- f) Securing and maintaining records of shellfish harvest from the Town of Chebeague Island's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.
- g) Recommending conservation closures and openings to the Selectmen in conjunction with the Department of Marine Resources.
- h) Submitting an annual report to the Selectmen and the Department of Marine Resources covering the above topics and all other Committee activities.

The clam-flats of the Town of Chebeague Island are a very valuable shellfish resource, which is important to the local economy. These flats are not an inexhaustible resource, and, therefore, must be prudently managed in order to remain viable.

As part of the management process, it may be necessary to (a) restrict the taking of shellfish by limiting the number of shellfish licenses, (b) restrict the size and quantity of shellfish which may be harvested, and (c) take other measures as outline in the Ordinance.

#### Section 104. SHELLFISH CONSERVATION WARDEN

The Selectmen shall appoint a Shellfish Conservation (Clam) Warden yearly and shall recommend the Warden's compensation. The Shellfish Conservation Warden shall regularly attend meetings of the Shellfish Conservation Committee, but shall not be a member of the Committee. The Selectmen, for cause by them declared in writing, after due notice to the officer and hearing, if requested, may remove the Shellfish Conservation Warden and appoint another one.

#### Section 105. LICENSING

A Town of Chebeague Island Shellfish License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current, valid license issued by this municipality as provided by this ordinance (except that children twelve and under can dig when they are accompanied by a licensed adult). A commercial digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources.

No person shall be issued a Shellfish License who, upon the time of the request, has failed to appear in court for a shellfish violation, or has failed to pay any outstanding shellfish violation fines.

The licensee must be present and must have their license on their person.

Licensing will be compliant with PS Law Chapter 47, LD 1735.

Section 106. COMMERCIAL LICENSES

The Shellfish Commission shall annually review and recommend to the Board of Selectman license fees for three types of Commercial licenses: Resident, Resident Senior and Non-resident.

- a) Resident Commercial Shellfish License: This license is available to residents of the Town of Chebeague.
- b) Resident Senior Commercial Shellfish License: This license is available to residents of the Town of Chebeague Island that are over the age of 70 and for a reduced license fee.
- c) Non-Resident Commercial Shellfish License: This license is available to non-residents of this municipality.
- d) At license issue, the licensee will choose any 90 days out of the 365 days available to harvest commercially. The license will serve as a recreational license the remaining 275 days except as may be modified in f) below.
- e) A commercial license under this section entitles the holder to dig and take one (1) bushel of shellfish per tide from the shores and flats of this municipality and reciprocating municipalities.
- f) The Shellfish Conservation Committee may specifically recommend the period of license validity as well as the areas open to commercial harvesting each year through the conservation closure process.
- g) Commercial Shellfish License Holders are supplied with, and required to keep, a Shellfish Harvesting Log, which must be submitted to the Town Clerk monthly, by the 10<sup>th</sup> day of the following month. The Log will include the license holder's name and address, and will show the date, location and quantity harvested during each tide. Commercial license holders, who do not submit Harvesting Logs, as required, will not be eligible for a commercial License during the next period of issuance of Commercial licenses.
- h) All commercial license holders that participate for a minimum of 10 hours in the annual Conservation Activities undertaken by the Shellfish conservation committee shall be guaranteed a renewal of their license for the following year. If the number of licenses available is less than the number of licenses guaranteed in this fashion, then a lottery will be held by the Town Clerk prior to the day licenses go on sale to determine which of the Conservation Activities participants receives their guaranteed license. Any license holder wishing to renew their license must have submitted a Shellfish Harvesting Log under Section 107(g) of this ordinance. The license holder who wishes to take advantage of the license guarantee must also indicate in writing to the Town Clerk their intention to take advantage of this guarantee at least one week prior to the day licenses go on sale. Any party who wishes to apply for a commercial license must have participated in Conservation Activities in any prior or current year, as described above.

Section 107. RECREATIONAL LICENSES

- a) A person holding a recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license. Maine certified shellfish wardens of the Town of Chebeague Island shall be issued a recreational shellfish license.
- b) Resident Recreational Shellfish License: This category of license shall be made available as an Individual license and as an "individual plus one" license. This category of license is available to residents of the Town of Chebeague Island and entitles the holder (or the holder plus one guest) to dig and take no more than one peck of shellfish per day per license for the use of the licensee, guests and immediate family. The Resident Recreational Shellfish license may be issued for the following durations:



- Annual (individual or individual plus one)
  - Month (individual)
  - Day (individual)
- c) Resident Senior Recreational Shellfish License: This category of license shall be made available as an Individual license. This license is available to residents of the Town of Chebeague Island who are over the age of 65 for a reduced license fee. The Individual license entitles the licensee to dig and take no more than one peck of shellfish per day for the use of the licensee, guest and licensee's immediate family.
- d) Non-Resident Recreational Shellfish License: This license is available to non-residents of the Town of Chebeague Island, and entitles the holder to dig and take no more than one peck of shellfish per day for the use of the licensee, guests, and immediate family and may be issued for the same durations as the Resident Recreational Shellfish License described in a) above.
- e) To facilitate weekend recreational clammers, the Town Clerk and the Shellfish Warden have arranged for a few licenses to be 'delegated' to the Shellfish Warden, who may be available on the weekend to sell daily licenses (within the annually approved quantity of licenses to be issued for that year). The Shellfish Warden can then complete the license issuing process, collect the funds, etc. A daily license can also be obtained by mail in advance from the Town Clerk. At no time shall any recreational license enable the harvest of more than one peck of shellfish per license per day.

Section 108.           REQUIREMENTS

- a) Signature: The licensee must sign the shellfish license to make it valid.
- b) A Shellfish license must be on the licensee's person when harvesting shellfish.
- c) Fees: The fees for licenses will be maintained on a separate fee schedule reviewed annually by the Shellfish Conservation Commission, recommended to the Board of Selectmen and approved by the Maine Department of Marine resources. The fee structure and number of licenses available must be available at the Town Office.
- d) Misrepresentation: Any person who gives false information on a shellfish license application will cause said shellfish license to become invalid and void.
- e) Expiration Date: Each shellfish license issued under the authority of this Ordinance expires at midnight on the December 31<sup>st</sup> next following date of issue, unless otherwise specified in this Ordinance.
- f) Reciprocal Harvesting: Privileges: License holders from other municipalities cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their shellfish licenses, according to the terms of their shared ordinance.
- g) Numbers of Licenses and Notice of Period of Issuance: Numbers of licenses and period of issuance will be reviewed annually by the Town of Chebeague Island Shellfish Conservation Committee, submitted for approval of the Commissioner of the Department of Marine Resources and by the Board of Selectmen.
- h) Minimum Legal Size: Pursuant to 12 M.R.S. §§ 6671 and 6681, as amended from time to time, it is unlawful to possess soft-shelled clam shell stock whose shells are less than 2 inches in the largest diameter. For purposes of this Ordinance the term, "possess", means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft-shelled clam shell stock.
- i) Legal Hours: shellfish may only be harvested from ½ hour before sunrise until ½ hour after sunset.

- j) Method of Determining Tolerance: Pursuant to 12 M.R.S. §§ 6671 and 6681, as amended from time to time, any person may possess soft-shelled clams that are less than 2 inches if they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical count of not less than one (1) peck nor more than four (4) pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.
- k) Implements: Shellfish may be harvested by hand implement only, such as clam hoes.

Section 109.           OPENING/CLOSING OF FLATS

The Selectmen with the approval of the Commissioner of Marine Resources may open and close areas for shellfish harvest.

When information in the possession of the Shellfish Conservation Committee indicates a clam-flat should be opened or closed, it shall advise the Selectmen. Upon concurrence of the Department of Marine Resources Area Biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Selectmen may call a public hearing or address the advisement at a regular Selectmen meeting, and shall send a copy of the notice to the Department of Marine Resources.

After the hearing is closed the Selectmen shall make findings of fact on the relevant evidence presented. The Selectmen shall then make a decision based on those findings of fact as to whether opening or closing of the flat is warranted, with the concurrence of the Department of Marine Resources, and shall order the flat opening or closing, and shall set such time limitation and other harvesting conditions as are consistent with good conservation practices. The Commissioner of Marine Resources prior to enactment shall approve any proposal for opening or closing of flats.

Section 110.           ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the Town Administrator. This Ordinance shall be enforced by the shellfish warden, special officers as provided in 30-A M.R.S.A. § 2672, municipal officers, code enforcement officer or law enforcement officer with jurisdiction in the Town of Chebeague Island.

Section 111.           PENALTIES

A person who violates this ordinance shall be punished as provided in 12 M.R.S.A. § 6671, as amended from time to time.

Section 112.           SUSPENSION OF LICENSE

- a) Violation of Shellfish Ordinance: The Town Clerk shall suspend any and all shellfish licenses issued under this Ordinance, if the license holder is convicted in court of violating any section of this Ordinance.
- b) Suspension based on conviction in a Town closed Conservation area: The Town Clerk shall suspend any and all shellfish licenses issued under this Ordinance if the license holder has been convicted in court of possessing shellfish from a           Town Closed Conservation Area.
- c) Length of Suspension for Section 112a) and Section 112b) above for a first conviction is 30 days from the date of first conviction or, for a second conviction; 365 days (one year) from the date of the second conviction. Any conviction more than three (3) years before last conviction shall not be counted in determining lengths of suspension.

- d) Suspension Based on Refusing Inspection. The Town Clerk shall suspend any and all shellfish licenses if the license holder refuses to allow inspection in the enforcement of the Ordinance. This suspension may not exceed 90 days.
- e) Any licensee whose shellfish license has been suspended shall be entitled to a hearing before the Selectmen, upon the filing of a written request for hearing with the Selectmen within thirty (30) days following the effective date of suspension. The applicant shall be given at least seven (7) days prior written notice of the date, time and place of hearing before the Selectmen. Any person aggrieved by the Selectmen's decision may appeal to the Superior Court within thirty (30) days from receipt of the Selectmen" written decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Section 113.           AMENDMENTS

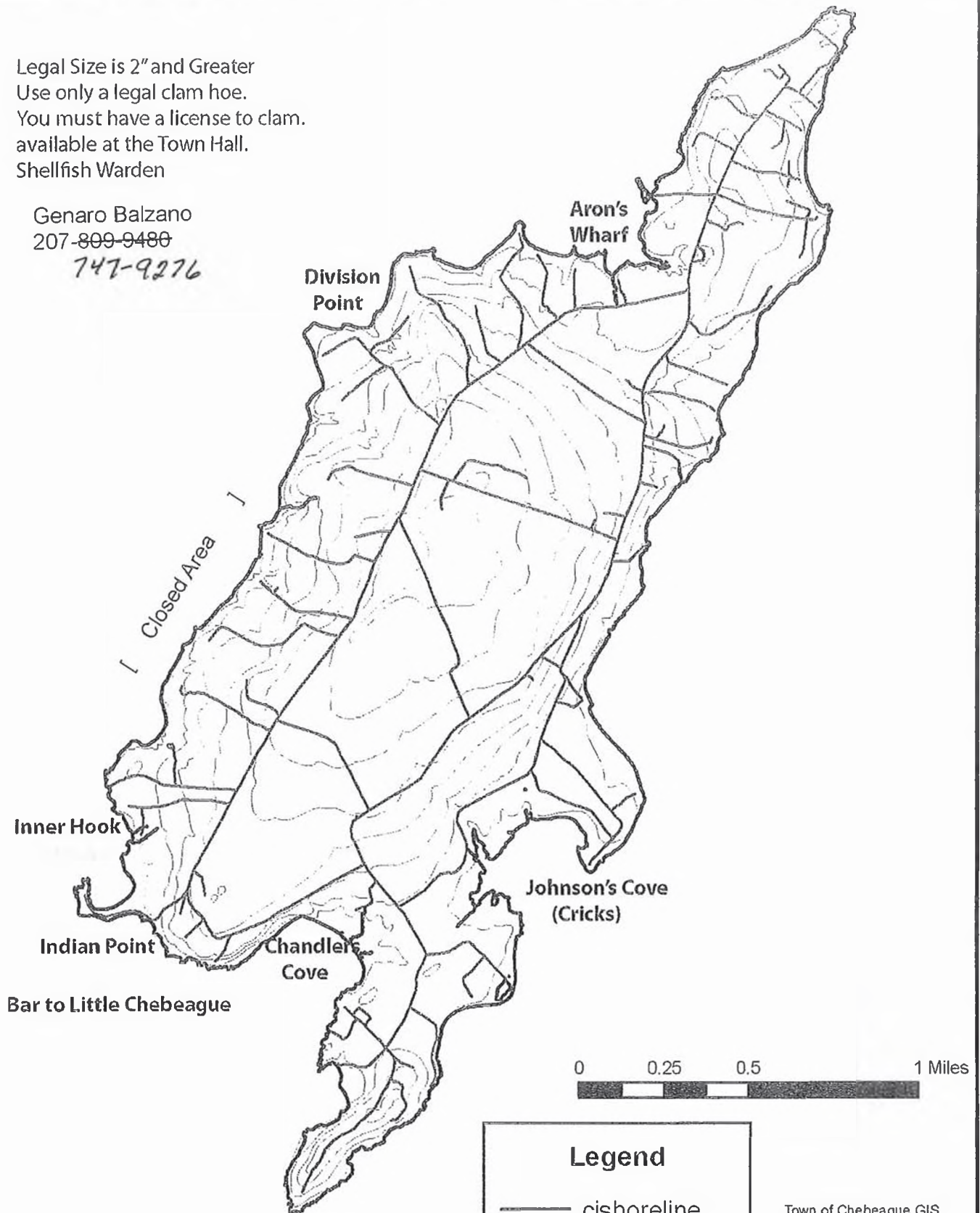
This Ordinance may be amended by Town Meeting at any properly noticed meeting after it has been approved by the Commissioner of Marine Resources and shall become effective after its adoption by the municipality provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.

Section 114.           SEVERABILITY

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

Legal Size is 2" and Greater  
Use only a legal clam hoe.  
You must have a license to clam.  
available at the Town Hall.  
Shellfish Warden

Genaro Balzano  
207-899-9480  
747-9276



# Chebeague Island

**Legend**

- cishoreline
- - - 20ft Contours

Town of Chebeague GIS  
8/10/10  
IntroductorymapChebeague  
Data: Town of Chebeague,  
Spatial Alternatives

## Clamming Instructions:

1. Get a clam license available at the Chebeague Town Office. Make sure there is not a (Red Tide Closure).

*Hot line 1-800-232-4733*

2. Determine when low tide occurs. Shellfish, such as clams are best harvested at low tide when the ocean floor has been exposed. Check the local tide chart and determine when low tide occurs in your area.
3. Look for areas where you see air holes or bubbling from beneath the sand. These air holes are good indicators that clams are underneath the sand.
4. Rake the sand with your clam hoe and make a small hole. Clams are not too deep below the surface. Dig small holes between 4 and 10 inches deep. If you don't find any clams, continue forward with your hole. Once you find your first clam, others are likely not too far behind. Insert the hoe's tines behind where you think the clams are, gently loosen the mud/sand with the hoe and pull forward. As you flip the soil, you hopefully will see the clams without damaging the shell. Remove the legal clams and place any undersized or damaged clams, (They still might live) head up. If placed correctly, they can be harvested another day.
5. Place the clams a bucket in the refrigerator or another method of keeping them alive. Do not wait too long; this depends on the temperature and how they are stored.
6. There is a 2" size limit, This is measured across the clam's shell. There are gages available at the town office.

Hand implement only. It shall be unlawful to fish for or take soft shell clams, except by implements operated solely by hand, ( Maine State Law ) Clam Warden, Genaro Balzano ~~809-9480~~ Please report any illegal activity. Please pick up after your pet.

747-9276

# SHORELAND ZONING ORDINANCE

of the Town of Chebeague Island, Maine

Adopted by the Town Meeting:  
April 7, 2018  
Effective April 7, 2018

Attest:

  
\_\_\_\_\_  
Town Clerk

Seal:



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## **SECTION 100 TITLE, PURPOSE, DEFINITIONS**

### **Section 101 Title**

This ordinance shall be known and may be cited as the "Shoreland Zoning Ordinance of the Town of Chebeague Island, Maine."

### **Section 102 Purpose**

The purpose of this Ordinance is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

### **Section 103 Authority**

This Ordinance has been prepared in accordance with the provisions of 38 M.R.S. §§435-449.

The shoreland area includes all land areas within 250 feet, horizontal distance of the upland edge of a coastal wetland, including all areas affected by tidal action, and the upland edge of a freshwater wetland.

This ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.<sup>1</sup>

### **Section 104 Land Use Requirements**

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

### **Section 105 Availability**

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

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<sup>1</sup> Coastal wetlands, by definition, include all areas affected by tidal action, not just those areas where salt marshes and salt meadows exist. Cobble and sand beaches, mudflats and rocky ledges, below the Highest Astronomical Tide are all considered to be coastal wetlands.

**Section 106 Severability**

Should any section or provision of this Ordinance be declared by the courts to be invalid or unenforceable, such decision shall not invalidate or limit the enforcement any other section or provision of the Ordinance.

**Section 107 Conflicts with Other Ordinances**

Except as otherwise specifically stated herein, whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

**Section 108 Definitions**

The word "person" includes an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure", and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". Terms not defined shall have their customary dictionary meaning. Other terms shall be defined as follows:

**Accessory Building or Use**

Accessory Building or Use shall mean subordinate building or use customarily incidental to, and located on the same lot with, the main building or use, including farm markets for the sale of agricultural and similar products where at least 60% of the gross receipts are derived from the sales of products produced or grown, or where some ingredients of products are grown or produced, on the lot. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Aggrieved party**

Aggrieved Party shall mean an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Agriculture**

The production, keeping or maintenance for sale or lease of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and

vegetables and ornamental green-house products. Agriculture does not include forest management and timber harvesting activities.

**Aquaculture**

Aquaculture shall mean the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Basal Area**

Basal Area shall mean the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark

**Basement**

Basement shall mean 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**

Boat Launching Facility shall mean 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.

**Building**

Building shall mean any structure used or intended for supporting or sheltering any use or occupancy.

**Building Area**

Building Area shall mean a total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

**Building Height**

Building Height shall mean 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.

**Bureau of Forestry**

State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

**Campground**

Campground shall mean 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**

Canopy shall mean the more or less continuous cover formed by tree crowns in a wooded area.

**Coastal Wetland**

Coastal Wetland shall mean 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, which boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the Highest Astronomical Tide level, including all areas affected by tidal action . Coastal wetlands may include portions of coastal sand dunes. All areas below the Highest Astronomical Tide elevation are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

**Commercial Fishing**

Commercial Fishing shall mean activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets, and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

**Commercial Use**

Commercial Use shall mean 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**

DBH shall mean the diameter of a standing tree measured 4.5 feet from ground level.

**Development**

Development shall mean a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Dimensional requirements**

Dimensional requirements shall mean numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability**

Disability shall mean 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**

Disruption of shoreline integrity shall mean 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**

Driveway shall mean a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

**Duplex**

Duplex shall mean a building used or intended for residential use containing two attached dwelling units.

**Dwelling, Attached**

Dwelling, Attached shall mean a dwelling which shares a common wall with one or more other dwellings, and which has independent outside access.

**Dwelling, Detached**

Dwelling, Detached shall mean a dwelling which is physically separate from any other building, including manufactured housing which is composed of two or more sections joined lengthwise, with the exception of accessory buildings.

**Dwelling Unit**

Dwelling unit shall mean a group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking and eating. A dwelling unit includes rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. Recreational vehicles are not dwelling units.

**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 and property from the threat of destruction or injury.

**Essential services**

Essential services shall include gas, electrical, communication facilities, steam, fuel or water supply, transmission, or distribution systems.

Excavation contractor- an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

**Expansion of a Structure**

Expansion of a Structure shall mean an increase in the footprint or height of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of Use**

Expansion of Use shall mean the addition of one or more months to a use's operating season; or the use of more footprint of a structure\_or ground area devoted to a particular use.

**Family**

Family shall mean one or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage, but no unrelated group shall consist of more than five (5) persons, as distinguished from a group occupying a boarding house, lodging house, or hotel.

**Floodway**

Floodway shall mean 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**

Floor Area shall mean the sum of the gross horizontal area of the floors of a building, enclosed by exterior walls, excluding basement floor areas. All dimensions shall be measured between interior faces of walls.

**Footprint**

The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**Forest Management Activities**

Forest Management Activities shall include timber cruising and other forest resources evaluation activities, pesticide or fertilizer application, management planning activities, insect and disease control, timber stand improvement, pruning, regeneration of forest stands, and other similar associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Forest Stand**

Forest Stand shall mean 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.

**Forested Wetland**

Forest Wetland shall mean a freshwater wetland dominated by woody vegetation that is twenty (20) feet tall or taller.

**Foundation**

Foundation shall mean the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

**Freshwater Wetland**

Freshwater Wetland shall mean freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- A. Often (10) or more contiguous acres, or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river or stream or brook, such that, in a natural state, the combined surface area is in excess of ten (10) acres; and
- B. 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.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

**Functionally Water-dependent Uses**

Functionally Water-dependent Uses shall include 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 cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**Ground Cover**

Ground Cover shall mean small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Groundwater**

Groundwater shall mean all water found beneath the surface of the earth.

**Harvest Area**

Harvest Area shall mean 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.

**Hazard tree**

A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.



**Height of Structure**

Structure Height shall mean 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 Occupations**

Home Occupations shall mean an occupation performed or conducted within a dwelling or an accessory structure by the residents thereof, which:

- A. Is accessory to a residential use, and;
- B. Is clearly incidental and secondary to the residential use of the dwelling unit, and;
- C. Does not change the character of the dwelling.

Home occupations may include, but are not necessarily limited to, arts and crafts work, dressmaking, tutoring, music teaching, the use of a portion of a dwelling as a bed and breakfast inn, a day care home, professional offices such as those of a physician, dentist, lawyer, engineer, architect, hairdresser, barber, real estate broker, insurance agent or accountant, or similar uses.

**Home-based Occupations**

Home-based Occupation shall mean an occupation based or located within a dwelling or an accessory structure which is performed or conducted at a location or locations remote from the dwelling and which:

- A. Is accessory to a residential use; and
- B. Is clearly incidental and secondary to the residential use of the dwelling unit; and
- C. Does not change the character of the dwelling.

**Impervious Surface**

Structures and other man-made improvements to land and materials covering the land which substantially reduce the infiltration of water. Impervious surfaces shall include, but are not limited to, roofs, paved areas, parking lots and driveways, regardless of surface materials.

**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.

**Individual Private Campsite**

An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

**Industrial**

The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**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. Chapter 76.

**Lot**

A tract or parcel of land, in the same ownership, provided that parcels located on opposite sides of a public or private road shall be considered each a separate tract or parcel unless such road was established by the owner of the parcels on both sides thereof.

**Lot Area**

Total horizontal area within the property lines excluding any part thereof lying within the boundaries of a public street, or proposed public street and excluding land below the normal high-water line of a water body or upland edge of a wetland. In the shoreland zone land beneath roads serving more than two lots is excluded.

**Marina**

A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore mooring 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.

**Municipal Uses or Buildings**

Municipal uses or buildings shall mean any use or building maintained by the Town of Chebeague Island.

**Native**

Native means 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, lot coverage or footprint, 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.

**Non-native invasive species of vegetation**

Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**Normal high-water line (non-tidal waters)**

That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

**Outlet stream**

Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**Permitted Use**

A use specifically allowed in a zoning district, excluding non-conforming uses and special exceptions.

**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, Breakwaters, Causeways, Floats, Marinas, 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 months in any period of twelve consecutive months.

Permanent: Structures which remain in or over the water for seven months or more in any period of twelve consecutive months.

**Principal structure**

A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

**Principal use**

A use other than one which is wholly incidental or accessory to another use on the same lot.

**Public Facility**

Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Recent Flood Plain Soils**

The following soils series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

**Recreational Facility**

A recreational facility is 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 recreational vehicle is 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 of Maine Bureau of Motor Vehicles.

**Replacement System**

A subsurface wastewater disposal system intended to replace: (1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or (2) any existing overboard wastewater discharge.

**Residual Basal Area**

The average of the basal area of trees remaining on a harvested site.

**Residual Stand**

A stand of trees remaining in the forest following timber harvesting and related activities.

**Rip-rap**

Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**Right-of-way**

A legally created public or private right to pass over the property of another. A private right-of-way is one that is created through a deed; a public right-of-way may be created through a deed, through dedication and acceptance, through laying out and taking or by public prescriptive use. A street right-of-way shall include all land within the lines of the street, whether improved or unimproved.

**Road**

A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles excluding a driveway as defined.

**Salt Marsh**

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

**Salt Meadow**

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

**Sapling**

A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**Seedling**

A young tree species that is less than four and one half (4.5) feet in height above ground level.

**Service drop**

Any utility line extension which does not cross or run beneath any portion of a water body provided that:

- A. in the case of electric service
  - 1. 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
  - 2. the total length of the extension is less than one thousand (1,000) feet.
- B. in the case of telephone service
  - 1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - 2. 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.

**Shoreland Area**

The land area located within two hundred and fifty (250) feet, horizontal distance, of

- A. the upland edge of a coastal wetland, including all areas affected by tidal action
- B. the upland edge of a freshwater wetland,
- C. which land area shall consist of the following overlay zoning districts as shown on the Official Zoning Map(s) which is (are) made a part of this Ordinance:
  - 1. Shoreland Resource Protection Overlay District
  - 2. Resource Protection/Floodplain Overlay District
  - 3. Limited Residential Overlay District
  - 4. Limited Commercial Overlay District
  - 5. Commercial Fisheries/Maritime Activities Overlay District.

**Shoreline**

The normal high-water line, or upland edge of a freshwater or coastal wetland.

**Signs**

The display of a word or words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, pictures, trade names, trademarks by which anything is made known, and/or combination of these shall be deemed signs.

**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.

**Storm-damaged tree**

A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

**Stream**

The confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

**Structure**

Anything temporarily or permanently located, built, constructed or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in 30-A M.R.S. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S § 4700-E(8).

**Substantial Start**

Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.



**Subsurface Sewage Disposal System**

Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S. §414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**Sustained Slope**

A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal Waters**

All waters affected by tidal action during the Highest Astronomical Tide.

**Timber Harvesting**

The cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. 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 312 of this Ordinance.

Activities related to timber harvesting include the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Tree**

A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary stream**

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 only applies to that portion of the tributary stream located within the Shoreland area of the receiving water body or wetland.

**Undue Hardship**

For any sign or height variance or for any structure that is located on a lot that is in whole or in part in a Shoreland area, undue hardship shall mean:

- A. The land in question cannot yield a reasonable return unless a variance is granted;
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- C. The granting of a variance will not alter the essential character of the locality; and
- .D The hardship is not the result of action taken by the applicant or a prior owner

**Upland Edge of a 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 Highest Astronomical Tide, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

[Note: The Highest Astronomical Tide is the elevation of the highest observed astronomical tide over the current or most recent 19-year National Tidal Datum Epoch (1983 to 2001)]

**Variance**

A relaxation of the terms of this Shoreland Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

A variance shall be authorized for percent of lot coverage, lot width, lot area, setbacks, substantial expansions and water frontage requirements.

**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.

**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 freshwater or 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

## **SECTION 200 ZONING DISTRICTS**

### **Section 201 Zoning Map and Districts**

The zoning map officially entitled "Town of Chebeague Island Zoning Map" dated April 7, 2018 (Appendix A), and on file in the office of the Town Clerk and filed with the Cumberland County Registry of Deeds is hereby adopted as part of this ordinance. Regardless of the existence of other printed copies of the zoning map, the zoning map on file as officially adopted by the Town of Chebeague Island Town Meeting shall be the final authority as to the location of zoning districts in the Town; provided, however, that notwithstanding said zoning map, the entire surface area of the following islands is contained within the Resource Protection district: Bangs Island, Little Chebeague Island, Stockman Island, Jewel Island, Little Jewel Island, West Brown Cow Island, Crow Island, Broken Cove Island, Gooseneck Island, Rogues Island, Upper Green Islands, and Sand Island.

The Town of Chebeague Island Zoning Map divides the Town into the following Shoreland Zoning Overlay districts:

- Shoreland Resource Protection Overlay (RP)
- Resource Protection/Floodplain Overlay (RP/FP)
- Limited Residential Overlay (LR)
- Limited Commercial Overlay District (LC)
- Commercial Fisheries/Maritime Activities Overlay (CFMA)

The Town of Chebeague Island Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

The Town of Chebeague Island 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.

If amendments, in accordance with Section 510, are made in the district boundaries or other matter portrayed on the Town of Chebeague Island Zoning Map, such changes shall be made on the Town of Chebeague Island Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

### **Section 202 District Boundaries**

Where uncertainty exists with respect to the boundaries of the various zones as shown on the official zoning map, the following rules shall apply:

**202.1** Unless otherwise indicated, district boundaries shown within the lines of roads, streams and transportation rights of way shall be deemed to follow center lines. The abandonment or non-use of roads shall not affect the location of such district boundaries. Development of property which is in more than one zoning district shall be controlled by the classification of the area to be used.

**202.2** The depictions of the Shoreland Zoning Overlay Districts on the Town of Chebeague Island Zoning Map are illustrative of the general location of such zones. The actual boundaries of these zones may be determined by an on-site evaluation done by an appropriate professional using the criteria established in Section 204.1 of this Ordinance, provided the on-site evaluation is reviewed and approved by the Code Enforcement Officer. Where such measurement is not the same as the location of the boundary on the Town of Chebeague Island Zoning Map the on-site measurement shall control, unless the official zoning map indicates that the zone boundary shall follow an existing property line. Where uncertainty exists as to the exact location of district boundary lines, the Board of Adjustments and Appeals shall be the final authority as to location.

**Section 203 District Objectives**

**203.1** No building shall hereafter be erected or altered to house a greater number of families, or to have a smaller setback, or to occupy a smaller lot, than is specified herein for the district in which such building is located.

**203.2** No use of land or buildings shall be allowed, nor shall any building be erected or altered for a use, which use is not specifically allowed within the district in which it is located, except as permitted under Section 400.

**Section 204 Shoreland Area Overlay Districts**

**204.1 Definition of Districts**

**A. Resource Protection Overlay District (RP)**

The Resource Protection Overlay District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland area, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, or Commercial Fisheries/Maritime Activities Overlay Districts need not be included within the Resource Protection Overlay District.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife

(MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W as of May 1, 2006.

2. Floodplains adjacent to tidal waters defined by the one hundred (100) year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
  3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
  4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
  5. Land areas adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs as shown in the Coastal Bluff maps in Appendix B.
- B. Resource Protection/Floodplain Overlay District (RP/FP)  
Areas of one hundred (100) year floodplains adjacent to tidal waters as shown on Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps (Appendix C).
- C. Limited Residential Overlay District (LR)  
The Limited Residential Overlay District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection Overlay District, and areas which are used less intensively than those in the Limited Commercial Overlay District, or the Commercial Fisheries/ Maritime Activities Overlay District.
- D. Limited Commercial Overlay District (LC)  
The Limited Commercial Overlay District includes areas of mixed, light commercial and residential uses.. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.
- E. Commercial Fisheries/Maritime Activities District (CFMA)  
The Commercial Fisheries/Maritime Activities Overlay District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in Table 1: Land Uses in the Shoreland Zone and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

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

**204.2. Table of Land Uses in Shoreland Area**

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 300. The district designation for a particular site shall be determined from the Town of Chebeague Island Zoning Map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection Overlay District

RP/FP - Resource Protection/Floodplain Overlay District

LR - Limited Residential Overlay District

LC - Limited Commercial Overlay District

CFMA - Commercial Fisheries/Maritime Activities Overlay District

MFS – Maine Forest Service

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

Land Uses	DISTRICT				
	RP	RP/FP	LR	LC	CFMA
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails and snowmobiling	Yes	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting and land management roads	Yes	Yes	Yes	Yes	Yes
4. Timber harvesting <sup>3</sup>	MFS	MFS	MFS	MFS	MFS
5. Clearing or removal of vegetation for activities other than timber harvesting <sup>3</sup>	CEO	CEO	Yes	Yes	Yes
6. Fire prevention activities	Yes	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes	Yes
8. Soil and water conservation practices <sup>3</sup>	Yes	Yes	Yes	Yes	Yes
9. Mineral exploration <sup>3</sup>	CEO	CEO	Yes <sup>1</sup>	Yes <sup>1</sup>	Yes <sup>1</sup>
10. Mineral extraction including sand and gravel extraction <sup>3</sup>	PB <sup>2</sup>	PB <sup>2</sup>	PB	PB	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes	Yes
13. Agriculture <sup>3</sup>	PB	PB	Yes	Yes	Yes
14. Aquaculture	PB	PB	PB	Yes	Yes
15. Principal structures and uses <sup>3</sup>					
A. One and two family residential, including driveways <sup>3</sup>	No <sup>9</sup>	No	CEO	CEO	No
B. Commercial <sup>3</sup>	No	No <sup>4</sup>	No <sup>4</sup>	PB	PB <sup>5</sup>
C. Industrial <sup>3</sup>	No	No	No	No	PB <sup>5</sup>
D. Governmental and institutional <sup>3</sup>	No	No	PB	PB	PB <sup>5</sup>
E. Small non-residential facilities for educational, scientific, or nature interpretation purposes <sup>3</sup>	PB	PB	CEO	CEO	PB <sup>5</sup>
16. Structures accessory to allowed uses <sup>3</sup>	PB <sup>6</sup>	PB	CEO	CEO	Yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland <sup>3</sup>					
A. Temporary	CEO <sup>10</sup>	CEO <sup>10</sup>	CEO <sup>10</sup>	CEO <sup>10</sup>	CEO <sup>10</sup>
B. Permanent	PB	PB	PB	PB	PB <sup>5</sup>
18. Conversions of seasonal residences to year-round residences <sup>3</sup>	LPI	LPI	LPI	LPI	No



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19.	Home occupations	PB	PB	PB	CEO	Yes
20.	Private sewage disposal systems for allowed uses.	No	No	LPI	LPI	LPI
21.	Essential services <sup>3</sup>					
	A. Roadside distribution lines (34.5kV and lower)	CEO <sup>7</sup>	CEO <sup>7</sup>	Yes <sup>11</sup>	Yes <sup>11</sup>	Yes <sup>11</sup>
	B. Non-roadside or cross-country distribution lines involving ten poles or less in the Shoreland zone	PB <sup>7</sup>	PB <sup>7</sup>	CEO	CEO	CEO
	C. Non-roadside or cross-country distribution lines involving eleven or more poles in the Shoreland zone	PB <sup>7</sup>	PB <sup>7</sup>	PB	PB	PB
	D. Other essential services accessory to permitted uses	PB <sup>7</sup>	PB <sup>7</sup>	PB	PB	PB
22.	Service drops, as defined to allowed uses	Yes	Yes	Yes	Yes	Yes
23.	Public and private parks and recreation areas involving minimal structural development <sup>3</sup>	PB	PB	PB	CEO	CEO <sup>5</sup>
24.	Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25.	Campgrounds <sup>3</sup>	No	No	PB	PB	No
26.	Road construction <sup>3</sup>	No <sup>8</sup>	No <sup>8</sup>	PB	PB	PB <sup>5</sup>
27.	Land management roads <sup>3</sup>	PB	PB	Yes	Yes	Yes
28.	Parking facilities <sup>3</sup>	PB	No	PB	PB	PB <sup>5</sup>
29.	Marinas <sup>3</sup>	PB	No	PB	PB	PB
30.	Filling and earth moving of <10 cubic yards <sup>3</sup>	CEO	CEO	Yes	Yes	Yes
31.	Filling and earth moving of >10 cubic yards <sup>3</sup>	PB	PB	CEO	CEO	CEO
32.	Signs	Yes	Yes	Yes	Yes	Yes
33.	Uses similar to allowed uses <sup>3</sup>	CEO	CEO	CEO	CEO	CEO
34.	Uses similar to uses requiring a CEO permit <sup>3</sup>	CEO	CEO	CEO	CEO	CEO
35.	Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

<sup>1</sup>Requires permit from the Code Enforcement Officer if more than one hundred (100) square feet of surface area, in total, is disturbed.

<sup>2</sup>In Resource Protection not allowed in areas so designated because of wildlife value.

<sup>3</sup>A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S. §480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland and operates in such a manner that material or soil may be washed into them:

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- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

<sup>4</sup>Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>5</sup>Functionally water-dependent uses and uses accessory to such water dependent uses only.

<sup>6</sup>Provided that a variance from the setback requirement is obtained from the Board of Adjustments and Appeals.

<sup>7</sup>See further restrictions in Section 309

<sup>8</sup>Except as provided in Section 310

<sup>9</sup>Single family residential structures may be allowed by special exception only according to the provisions of Section 505, Special Exceptions. Two-family residential structures are prohibited.

<sup>10</sup>Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>11</sup>Permit not required, but must file a written “notice of intent to construct” with CEO.

**Land Use Standards**

All land use activities within the Shoreland area shall conform with the following provisions, if applicable.

Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principle structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-tidal Areas	40,000	200
(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 normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.		
(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.		

### **204.3 Principal and Accessory Buildings and Structures**

- A. All new principal and accessory buildings and structures shall be set back at least seventy-five (75) feet from the normal high-water line of tributary streams, or the upland edge of a wetland, except that in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection and Resource Protection/Floodplain Overlay Districts 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:

1. 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.
2. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map (Appendix B). 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 Adjustments and Appeals.
3. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

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- B. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Overlay Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- C. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. Since the Town of Chebeague Island participates in the National Flood Insurance Program and has adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- D. With the exception of Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a Commercial Fisheries/Maritime Activities District, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

- E. 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:
  - 1. The site has been previously altered and an effective vegetated buffer does not exist;
  - 2. The wall(s) is(are) at least twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

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3. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  4. The total height of the wall(s), in the aggregate, is/are no more than 24 inches;
  5. 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 (Appendix C), or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
  6. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
  7. A vegetated buffer area is established within twenty-five (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:
    - a. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
    - b. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
    - c. Only native species may be used to establish the buffer area;
    - d. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
    - e. A footpath not to exceed the standards in Section 312.B.1 may traverse the buffer.
- F. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of

Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. §480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**204.4 Commercial and Industrial Uses**

The following new commercial and industrial uses are prohibited within the shoreland zone

- A. Auto washing facilities
- B. Auto or other vehicle service and/or repair operation, including body shops
- C. Chemical and bacteriological laboratories
- D. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
- E. Commercial painting, wood preserving, and furniture stripping
- F. Dry cleaning establishments
- G. Electronic circuit assembly
- H. Laundromats, unless connected to a sanitary sewer
- I. Metal plating, finishing, or polishing
- J. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- K. Photographic processing
- L. Printing

## **SECTION 300 GENERAL REGULATIONS**

### **Section 301 Agriculture**

- 301.1** All spreading of manure shall be accomplished in conformance with *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of 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.
- 301.2** 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 the Ordinance.
- 301.3** There shall be no new tilling of soil within seven-five (75) feet, horizontal distance, from coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with provision may be maintained.
- 301.4** 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, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan to be filed with the Planning Board.

### **Section 302 Beach Construction**

Beach construction on any coastal wetland shall require a permit from the Department of Environmental Protection. Beach construction on any river, stream, or brook shall require approval from the Commissioner of the DEP, as required by law.

### **Section 303 Campgrounds**

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

- 303.1** Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.



**303.2** The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet, horizontal distance from the normal high-water line of tributary streams, or the upland edge of a wetland.

**Section 304 Erosion and Sedimentation Control**

**304.1** Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner to prevent to the maximum extent possible, erosion and sedimentation of surface waters. To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of *Environmental Quality Handbook Erosion and Sediment Control*, published by the Maine Soil and Water Conservation Commission.

**304.2 Erosion and Sedimentation Control in the Shoreland Zone**

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 revegetation of disturbed soil.
- B. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- C. Permanent stabilization structures such as retaining walls or rip-rap.

**304.3** 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.

**304.4** 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.

**304.5** 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.

**304.6** 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.

**Section 305 Extraction of Earth Materials in the Shoreland Zone**

- A. 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 excavation, 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.
- B. Extraction of earth materials within Shoreland Areas 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 305.8.B.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 the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.
  - 3. When gravel pits must be located within shoreland areas, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened by existing vegetation.

4. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - b. The final graded slope shall be two and one-half to one (2½:1) 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 Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

**Section 306 Essential Services**

- A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- B. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- C. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

**Section 307 Parking Areas in the Shoreland Zone**

- A. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking

areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Commercial Fisheries/Maritime Activities Districts 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.

- B. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- C. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - 1. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - 2. Internal travel aisles: Approximately twenty (20) feet wide.

**Section 308 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreland Stabilization**

**308.1** The purpose of this section is to protect traditional public access to, and use of the shore. Also to minimize adverse impacts on fisheries, the environment and public enjoyment of the shoreline, including visual and navigational impacts.

**308.2** This section pertains to construction of, or alteration and repairs to, piers, wharves, docks, bridges, floats and other structures and uses extending over or below the mean high water line of a water body, submerged lands, or wetlands. These are referred to simply as “piers, wharves, docks, bridges, floats and other structures” in the sections below.

Piers are platforms built with pilings for support; wharves are solid structures built of granite blocks and/or contiguously placed materials; the term docks refers to (1) the docking space alongside or between piers and wharves as well as (2) the piers and wharves themselves (the more common usage). Other structures include, but are not limited to items such as ramps, marine rails and cribbing.

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 cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building

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facilities, marinas, navigational aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**308.3** All applications shall be reviewed by the Coastal Waters Commission. The Coastal Waters Commission shall provide the Planning Board a written advisory recommendation regarding all applications related to Section 308 of the Town of Chebeague Island Shoreland Zoning Ordinance. Applications shall include sufficient information for the Commission to determine if the Ordinance conditions are met. Applications shall include, but shall not be limited to structure elevations, high and low water elevations, building materials to be used, soil substrates, habitat types, and property boundary surveys.

**308.4** The following standards shall apply to all piers, docks, floats, wharves, bridges, and other structures and uses extending over and beyond the normal high water line of a body of water, submerged lands or wetland:

No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 204.2.C, a second structure may be allowed and may remain as long as the lot is not further divided.

- A. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- B. The location shall not interfere with existing developed or natural beach areas.
- C. The facility shall be located so as to minimize adverse effects on fisheries.
- D. 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.
- E. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- F. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- G. Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond

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the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

- H. Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation.

Public and Commercial facilities shall submit a lighting plan for review by the Planning Board for safety and compatibility with the proposed use.

All lighting shall be in conformance with all Federal, State, and local standards including Coast Guard Regulations for lighting of piers or wharves where applicable.

- I. Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling and navigation. This may require accommodations such as steps or pier elevations that would allow passage over or beneath a structure.
- J. Where a waterfront structure is proposed that will serve more than one property, the property owners shall submit to the Town of Chebeague Island a proposed easement demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town of Chebeague Island.
- K. Before any construction or site preparation begins, the applicant must obtain all Federal, State and local permits, as required, including but not limited to a Code Enforcement Officer permit, permits from the Department of Environmental Protection under the Natural Resources Protection Act, 38 M.R.S. §480-C as subsequently amended, the Army Corps of Engineers, and a Wharfing-Out permit issued by the Selectmen under 38 M.R.S. §§1021 - 1027, as subsequently amended.
- L. Vegetation may be removed in excess of the standards in Section 312 of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
  - 1. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
  - 2. Revegetation must occur in accordance with Section 316.

- M. The Town of Chebeague Island shall notify all property owners within one thousand five hundred (1,500) feet of the proposed project. In addition, the Town of Chebeague Island shall place Public Notices in four (4) locations to maximize notification of the affected citizenry and shall place Public Notices in two local papers.

**Section 309 Public Utilities in the Shoreland Zone**

- A. In the shoreland zone, where feasible, the installation of public utilities shall be limited to existing public ways and existing service corridors.
- B. The installation of public utilities, other than road-side distribution lines, is not allowed in a Resource Protection Overlay District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts
- C. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

**Section 310 Streets, Roads and Driveways in the Shoreland Zone**

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- A. Roads and driveways shall be set back at seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists, as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 310.A above 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

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providing access to permitted structures within the setback area shall comply fully with the requirements of Section 310.A except for that portion of the road or driveway necessary for direct access to the structure.

- B. 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.
- C. New roads and driveways are prohibited in a Resource Protection Overlay District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection Overlay 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 Overlay District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- D. 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 304 (Erosion and Sedimentation Control).
- E. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- F. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- G. 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:
  - 1. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
-----------------	----------------



0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

2. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
3. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
4. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

H. 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.

**Section 311 Stormwater Runoff**

- A. All new construction and development shall be designed to minimize stormwater runoff from site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- B. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

**Section 312 Clearing or Removal of Vegetation for Activities other than Timber Harvesting**

- A. In any Resource Protection Overlay District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- B. Except in areas as described in Paragraph A above, within a strip of land extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

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1. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
2. 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 this Section a "well-distributed stand of trees" adjacent to a wetland or tributary stream shall be defined as maintaining a rating score of sixteen (16) or more in each 25-foot by 50-foot rectangle (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4 ½ Feet Above Ground Level (inches)	Points
2 - <4 in.	1
8 - <12 in.	2
4 – <8 in.	4
12 in or greater	8

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

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

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 20 points (36 - 16 = 20) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- a. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- b. Each successive plot must be adjacent to, but not overlap a previous plot;

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- c. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- d. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- e. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 312.B.2 “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 (4½) 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 4½ feet above ground level may be removed in any ten (10) year period.

- 3. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover including leaf litter and the forest duff layer shall not be cut, covered or removed except to provide for a footpath or other permitted uses as described in paragraphs 312.B and 312.B.1 above.
- 4. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 314, unless existing new tree growth is present.

The provisions contained in paragraph B. above 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.

- 5. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirement of Section 312.B.

- C. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, lawns, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area, but shall not apply to the General Development or Commercial Fisheries/Maritime Activities Overlay Districts.

- D. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- E. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this Section

**Section 313 Archaeological Sites**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

**Section 314 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

- A. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
1. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2)

inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

2. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
  3. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  4. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
  5. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- B. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
1. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

- a. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
  - b. Stumps from the storm-damaged trees may not be removed;
  - c. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
  - d. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
2. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

**Section 315 Exemptions to Clearing and Vegetation Removal Requirements**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 312 provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- A. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this Section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 312 apply;
- B. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 204.3 are not applicable;
- C. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

- D. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 301 are complied with;
- E. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S. §343-E, and that is located along a coastal wetland.
- F. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - 1. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - 2. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - 3. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- G. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

**Section 316 Revegetation Requirements.**

When revegetation is required in response to violations of the vegetation standards set forth in Section 312 to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- A. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and

maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

- B. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- C. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- D. Revegetation activities must meet the following requirements for trees and saplings:
  - 1. All trees and saplings removed must be replaced with native noninvasive species;
  - 2. Replacement vegetation must at a minimum consist of saplings;
  - 3. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - 4. No one species shall make up fifty (50%) percent or more of the number of trees and saplings planted;
  - 5. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - 6. A survival rate of at least eighty (80%) percent of planted trees or saplings is required for a minimum five (5) year period.
- E. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:



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1. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  2. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  3. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  4. No one species shall make up fifty (50%) percent or more of the number of planted woody vegetation plants; and
  5. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.
- F. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
1. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  2. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
  3. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

**Section 317 Signs in the Shoreland Zone**

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential, and Limited Commercial Overlay Districts;

- A. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial Overlay 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.

- B. 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.
- C. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- D. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- E. Signs relating to public safety shall be allowed without restriction.
- F. No sign shall extend higher than twenty (20) feet above the ground.
- G. Signs may be illuminated only by shielded, non-flashing lights.

**Section 318 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.

**Section 319 Water Quality Protection**

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters including any water body, tributary stream or wetland, so as to impair designated uses or the water classification of the water body, contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

**Section 320 Individual Private Campsites**

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- A. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- B. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- C. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.
- D. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- E. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
- F. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- G. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**Section 321 Sanitary Standards**

In the shoreland zone clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and a holding tank is not allowed for a first-time residential use in the shoreland zone.

## **SECTION 400 NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS**

### **Section 401 Non-conforming Structures, Uses, Buildings and Lots in the Shoreland Zone**

The use of any building, structure or land which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued subject to the following provisions:

#### **401.1 Non-conforming Structures, Uses, Buildings and Lots**

A. Transfers of ownership, repair, maintenance, expansions, relocations and reconstruction or replacement of non-conforming buildings or structures in shoreland areas are governed by the following:

##### **B. General**

1. Transfer of Ownership. Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. Repair and Maintenance. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations 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: All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 204.3. A non-conforming building or 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, provided further that:
  - a. Expansion of if any portion of a structure within twenty-five (25) feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal

structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

- b. Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than twenty-five (25) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 401.1.C.1.
  - i. The maximum total footprint for the principal structure may not be expanded to a size greater than eight hundred (800) square feet or thirty (30%) percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than fifteen (15) feet or the height of the existing structure, whichever is greater.
- c. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 401.1.C.1 or Section 401.1.C.1.a, above.
  - i. For structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand (1,000) square feet or thirty (30%) percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty (20) feet or the height of the existing structure, whichever is greater.
  - ii. In addition to the limitations in subparagraphs (i) for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than two hundred

fifty (250) feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand five hundred (1,500) square feet or thirty (30%) percent larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 401.1.C.1.b.i and Section 401.1.C.1.c.i, above.

- d. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within ninety (90) days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
2. Foundations: Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the building or structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified Sec. 401.1.C.3, Relocation, below.
3. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a building or structure be relocated in manner that causes the structure to be more non-conforming.

In determining whether the building or structure relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall

consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other buildings and 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 accordance with Section 316. 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.
  - b. 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.
  - c. 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.
4. Reconstruction or Replacement: Any non-conforming building or 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 fifty percent (50%) of the market value of the building or structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a building or 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 401.1.C.1 above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total amount of footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 401.1.C.3 above.

Any non-conforming building or 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 fifty percent (50%) or less of the market value of the building or 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 or structure reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 401.1.C.3 above, the physical condition and type of foundation present, if any.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 401.1.C.3 above, the physical condition and type of foundation present, if any.

D. Change of Use of a Non-conforming Structure:

The use of a non-conforming building or structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding each of the criteria listed herein and shall determine whether the proposed use has a greater adverse impact upon the public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing maritime activities, and other functionally water-dependent uses than the existing use.

E. 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 401.1.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 CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 401.1.D above.

F. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S. §§ 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot

provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to two (2) or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on December 10, 1991, (when the Town of Cumberland first adopted shoreland zoning) 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 one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of Section 401.3.F.3.a are reconfigured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty-thousand (20,000) square feet of lot area.

## **SECTION 500 ADMINISTRATIVE PROVISIONS**

### **Section 501 Administering Bodies and Agents**

- A. Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- B. Board of Adjustments and Appeals. A Board of Adjustments and Appeals shall be created in accordance with the provisions of 30-A M.R.S. §2691.
- C. Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

### **Section 502 Permits Required.**

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- A. A permit is not required for the replacement of an existing road culvert as long as:
  - 1. The replacement culvert is not more than 25% longer than the culvert being replaced;
  - 2. The replacement culvert is not longer than seventy-five (75) feet; and
  - 3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- B. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
  - 1. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

**Section 503 Permit Application**

- A. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 204.2.
- B. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- C. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- D. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
- E. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

**Section 504 Procedure for Administering Permits**

- A. Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 204.2, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed

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to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty (30) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty (30) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty (30) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

- B. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
- C. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
  - 1. Will maintain safe and healthful conditions;
  - 2. Will not result in water pollution, erosion, or sedimentation to surface waters;
  - 3. Will adequately provide for the disposal of all wastewater;
  - 4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
  - 5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - 6. Will protect archaeological and historic resources as designated in the comprehensive plan;
  - 7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
  - 8. Will avoid problems associated with floodplain development and use; and
  - 9. Is in conformance with the provisions of Section 204, Zoning Districts, and Section 300, General Regulations.
- D. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an

unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

**Section 505 Special Exceptions**

In addition to the criteria specified in Section 504 above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- A. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- B. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- C. All proposed buildings, sewage disposal systems and other improvements are:
  - 1. Located on natural ground slopes of less than 20%; and
  - 2. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- D. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of one thousand five hundred (1,500) square feet. This limitation shall not be altered by variance.
- E. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be

removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

**Section 506 Expiration of Permit**

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

**Section 507 Installation of Public Utility Service**

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

**Section 508 Appeals**

A. Powers and Duties of the Board of Adjustments and Appeals.

The Board of Adjustments and Appeals shall have the following powers:

1. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Adjustments and Appeals.
2. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

B. Variance Appeals. Variances may be granted only under the following conditions:

1. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.



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2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
3. The Board of Adjustments and Appeals shall not grant a variance unless it finds that:
  - a. The proposed structure or use would meet the provisions of Section 204 and Section 300 except for the specific provision which has created the non-conformity and from which relief is sought; and
  - b. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
    - i. That the land in question cannot yield a reasonable return unless a variance is granted;
    - ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - iii. That the granting of a variance will not alter the essential character of the locality; and
    - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
4. Notwithstanding Section 508.B.3.b above, the Board of Adjustments and Appeals, or the Codes Enforcement Officer if authorized in accordance with 30-A M.R.S. §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Adjustments and Appeals shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board 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 or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 508.B.6 and 508.D.2.d below.
5. The Board of Adjustments and Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary.

The party receiving the variance shall comply with any conditions imposed.

6. 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 Adjustments and Appeals. Any comments received from the Commissioner prior to the action by the Board of Adjustments and Appeals shall be made part of the record and shall be taken into consideration by the Board of Adjustments and Appeals.

#### C. Administrative Appeals

When the Board of Adjustments and Appeals reviews a decision of the Code Enforcement Officer the Board of Adjustments and Appeals shall hold a “de novo” hearing. At this time the Board of Adjustments and Appeals may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Adjustments and Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Adjustments and Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Adjustments and Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Adjustments and Appeals may receive and consider written or oral arguments. If the Board of Adjustments and Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Adjustments and Appeals may remand the matter to the Planning Board for additional fact finding.

#### D. Appeal Procedure

##### 1. Making an Appeal

- a. An administrative or variance appeal may be taken to the Board of Adjustments and Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 508.A above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

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- b. Applications for appeals shall be made by filing with the Board of Adjustments and Appeals a written notice of appeal which includes:
    - i. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
    - ii. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
  - c. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Adjustments and Appeals all of the papers constituting the record of the decision appealed from.
  - d. The Board of Adjustments and Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.
2. Decision by Board of Adjustments and Appeals
- a. A majority of the full voting membership of the Board of Adjustments and Appeals shall constitute a quorum for the purpose of deciding an appeal.
  - b. The person filing the appeal shall have the burden of proof.
  - c. The Board of Adjustments and Appeals shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
  - d. The Board of Adjustments and Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board of Adjustments and Appeals. The Board of Adjustments and Appeals shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board of Adjustments and Appeals' decision. Copies of written decisions of the Board of Adjustments and Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

- E. Appeal to Superior Court  
Except as provided by 30-A M.R.S. §2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Adjustments and Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- F. Reconsideration  
In accordance with 30-A M.R.S. §2691(3)(F), the Board of Adjustments and Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board of Adjustments and Appeals to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board of Adjustments and Appeals members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board of Adjustments and Appeals may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

**Section 509 Enforcement**

**509.1 Nuisances**

Any violation of this Ordinance shall be deemed to be a nuisance.

**509.2 Code Enforcement Officer**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- B. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- C. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or

denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

**509.3 Legal Actions**

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

**509.4 Fines**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S. §4452.

**Section 510 Changes and Amendments**

**510.1** Amendments to this Ordinance may be initiated by the Planning Board, the Board of Selectmen, by any landowner or his authorized agent or by a person having a written agreement to purchase the property, and submitted to Town Meeting.

**510.2** Any proposed amendment or change, unless initiated by the Planning Board, shall be submitted to the Planning Board for public hearing and advisory recommendation; public notice of such hearing shall be given by posting at the Town office and publication in a newspaper of general circulation within the Town at least ten days prior to the date thereof, except that public notice of a Planning

Board public hearing on a contract or conditional rezoning agreement shall comply with the requirements set forth in 30-A M.R.S. §4352(8) or its successor.

**510.3** Amendments to the text or the zoning map shall be consistent with the adopted Comprehensive Plan, if any, and shall be consistent with the purpose of this Ordinance as stated in Section 102.

**510.4** Proposals for change of zone shall include a site plan for the proposed use drawn in compliance with Site Plan Review, and shall also include a location map showing the existing and proposed zone classification and zone boundaries. If a petitioner fails to begin construction in a substantial manner in accordance with an approved plan within one year from the effective date of the rezoning, the Planning Board shall initiate rezoning to the original zone classification. No request for change of zone shall be considered within one year from the date of any Town Meeting denial of the same request.

**Section 511 Outside Consulting Fees**

Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise specified by law, the Town shall assess a fee to cover one hundred (100%) percent of its costs for outside engineering, planning, legal and similar professional consulting services. Such fees shall be subject to the following limitations:

**511.1** They must be expressly provided by ordinance;

**511.2** The ordinance must require review which is beyond the expertise of Town staff members;

**511.3** They must be reasonable in amount based upon the time involved and the complexity of the review;

**511.4** The results shall be available for public review, but shall be deemed to have been made solely for the benefit of the Town and shall remain its property;

**511.5** They shall be assessed for the privilege of review and so be payable without regard to their results or the outcome of the application;

**511.6** Any dispute, regarding the application of this Section or the amount required to be paid either in advance or upon completion, may be appealed in writing within ten (10) days to the Town Administrator who may, after due notice and investigation and for good cause shown, affirm, modify or reverse the disputed decision or reduce the amount assessed. Until the Town Administrator has resolved the dispute, no portion of the project review for which the consulting fee is in dispute may go

forward unless the applicant has paid or otherwise made satisfactory provision therefore, and no portion of the project review may go forward; and

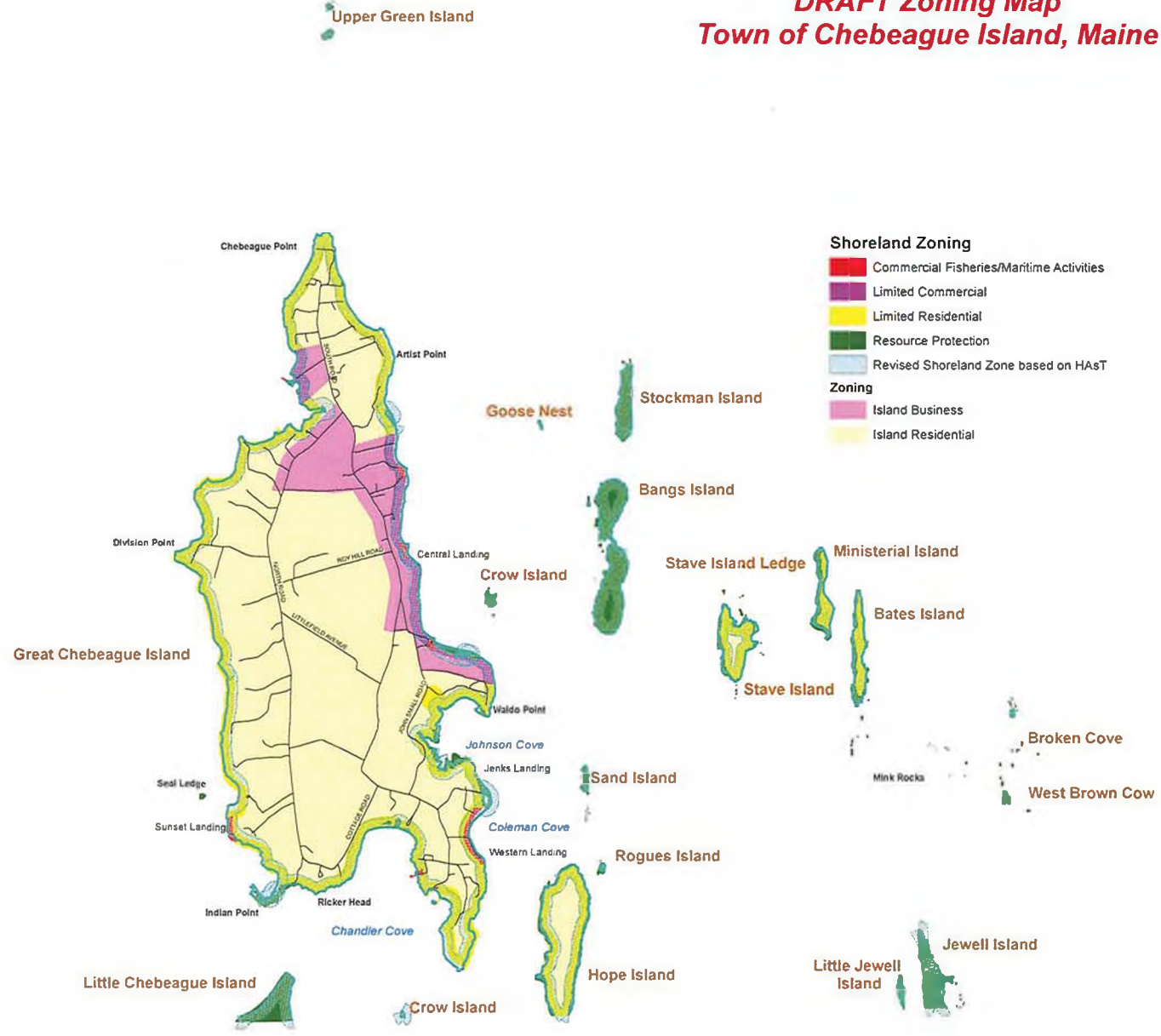
**511.7** Where the amount of such fee may exceed one thousand (\$1,000.00) dollars, reasonable provision must be made in advance to guarantee payment. If the balance in the special account shall be drawn down by seventy-five (75%) percent, the Town shall notify the applicant, require that an additional amount be deposited to cover the remaining work, and no portion of the project review, for which the additional consulting fee is required, may go forward unless the applicant has paid or otherwise made satisfactory provision therefore. The Town shall continue to notify the applicant and require an additional amount be deposited as necessary whenever the balance of the account is drawn down by seventy-five (75%) percent of the original deposit. Any excess amount deposited in advance shall be promptly refunded after final action on the application.

This Section shall be administered initially by the Town employee or board responsible for enforcing the ordinance under which review is sought. If any person, or any entity or corporation in which said person is a principal owes the Town any amount for fees assessed under this Section for any project under this ordinance or the Subdivision Ordinance, such person shall not be issued any building permit or certificate of occupancy, or have a subdivision plat released for any other building or development in Town until all such outstanding amounts have been paid in full. An appeal under this Section may be brought to the Board of Adjustment and Appeals. No building permit or certificate of occupancy may be issued, nor subdivision plat released for recording until all fees hereunder have been paid in full.

**Section 512 Effective Date**

This Ordinance shall be deemed to have been effective and to have continued to be effective after December 10, 1991, when the Town of Cumberland first adopted shoreland zoning applicable to land and waters now located within the boundaries of the Town of Chebeague Island.

# DRAFT Zoning Map Town of Chebeague Island, Maine



- Shoreland Zoning**
- Commercial Fisheries/Maritime Activities
  - Limited Commercial
  - Limited Residential
  - Resource Protection
  - Revised Shoreland Zone based on HAS T
- Zoning**
- Island Business
  - Island Residential

Note: The depiction of the Shoreland Overlay Districts on the Official Zoning Map for the Town of Chebeague Island are merely illustrative of their general location. The boundaries of these districts shall be determined by the measurements of the distance indicated on the map from the Highest Astronomical Tide of the water body or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map.

All inhabited islands are included in the Aquifer Protection District.

Map Prepared by  
 Spatial Alternatives



7/1/07  
 Chebeague Island  
 "Appendix B"

**Portland East Quadrangle, Maine**  
 Coastal Bluff mapping by  
 Martha Bryant, Walter A. Barnhart,  
 Stephen N. Dickson, and Joseph T. Kelley

**Field collection by:**  
 William S. Burt, Richard A. Wilson, Jr., Robert G. MacVeaney (State Geologist), Richard D. Tucker, Stephen N. Dickson

**Technical assistance and editing by:**  
 Richard D. Tucker, Stephen N. Dickson

Planning for this quadrangle was provided by the Maine State Planning Office under the Coastal Zone Management Act of 1972, as amended, pursuant to Section 1015 of the Coastal Zone Management Act of 1972, as amended, and the Coastal Resource Management Act of 1972, as amended, and the Coastal Resource Management Act of 1972, as amended.

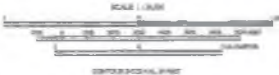
**Maine Geological Survey**  
 Address: 22 State Street, Bangor, Maine 04402  
 Telephone: 207-733-2821 Fax: 207-733-2822  
 Home page: <http://www.maine.gov/geology/index.html>

**Open-File No. 02-205**  
 2002  
 This map is available Open-File No. 02-205

**Coastal Bluffs**



**DATA COLLECTOR AND COMPILER**  
 Martha Bryant, Walter A. Barnhart, Stephen N. Dickson, and Joseph T. Kelley



	Bluff Face
	Bluff
	No Bluff

**Classification and Mapping of Maine's Coastal Bluffs**

Coastal bluffs are defined as a steeply sloping landform that is composed of unconsolidated sedimentary or volcanic material. They are formed by the erosion of soft sedimentary rocks, such as sandstone, siltstone, shale, and claystone, by the action of waves and wind. Bluffs are characterized by their steep, vertical faces and are often found along the coast of Maine. This map shows the distribution of bluffs along the coast of Maine, with different colors and symbols representing different bluff types and features.



**Bluff face showing vertical erosion.**  
 This photograph shows a typical bluff face with vertical erosion. The bluff is composed of unconsolidated sedimentary rocks, such as sandstone, siltstone, shale, and claystone. The vertical erosion is caused by the action of waves and wind. The bluff face is steep and vertical, and is often found along the coast of Maine.

**Classification of Coastal Bluffs**

Bluff Type	Bluff Face		
	Large	Medium	Small
Highly erodible			
Medium erodible			
Low erodible			
No Bluff			

**Note:** The classification of the bluff is indicated by a color, pattern, and height (indicated by the width of the line). The width of the line is 1/8" (small), 1/4" (medium), and 3/8" (large). Stability is indicated by the pattern.

Bluff Type	Description of Bluff Face
Ledge	Consists of 50% or more bedrock. May include other characteristics of sediment that is not sandstone or siltstone (see the glossary).
Armed	Consists of 50% or more granite, gneiss, and other igneous structures. Conditions of erosion may indicate degree of stability of bluff face.
Fall	Mostly or fully eroded fall with minor talus that is not stable. May include small rock outcrops.
Beach/Rock	Sediment, ranging in texture from mud (clay) to rubble (gravel/beach). May include small rocky outcrops or small patches of vegetation.
Bluff Face	Typical Characteristics of Bluff Face (see glossary)
Highly erodible	Mostly or more than 50% sandstone or siltstone. Includes other characteristics of bluff face.
Medium erodible	Mostly or more than 50% sandstone or siltstone. Includes other characteristics of bluff face.
Low erodible	Mostly or more than 50% sandstone or siltstone. Includes other characteristics of bluff face.
No Bluff	Bluff face is not present. Includes other characteristics of bluff face.

**Bluff Processes and Bluff Hazards**

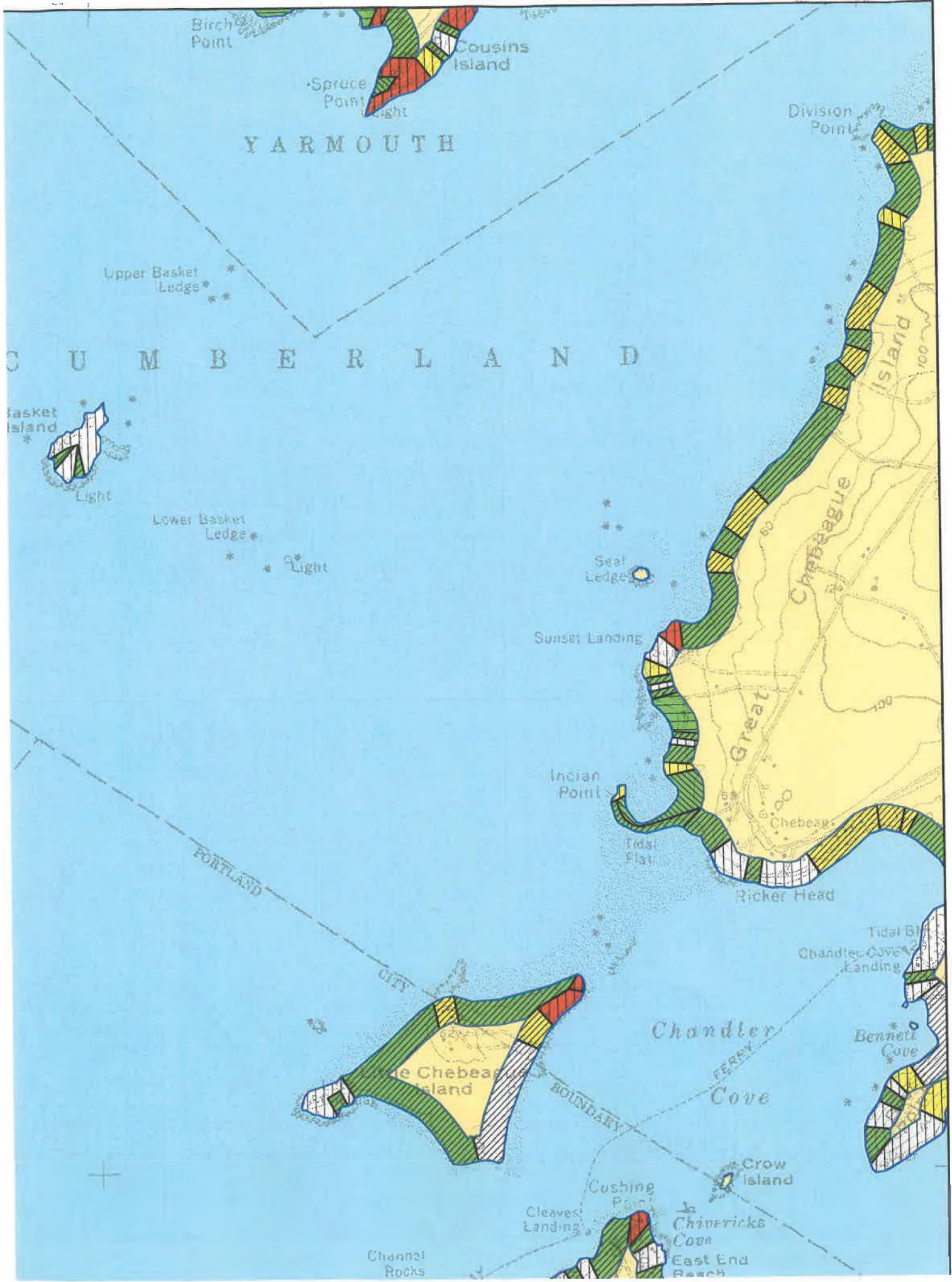
Bluffs are formed by a variety of coastal erosion processes, including wave erosion, wind erosion, and ice erosion. Bluff erosion is a natural process that occurs along the coast of Maine. Bluff erosion is caused by the action of waves and wind. Bluff erosion is a natural process that occurs along the coast of Maine. Bluff erosion is caused by the action of waves and wind. Bluff erosion is a natural process that occurs along the coast of Maine. Bluff erosion is caused by the action of waves and wind.

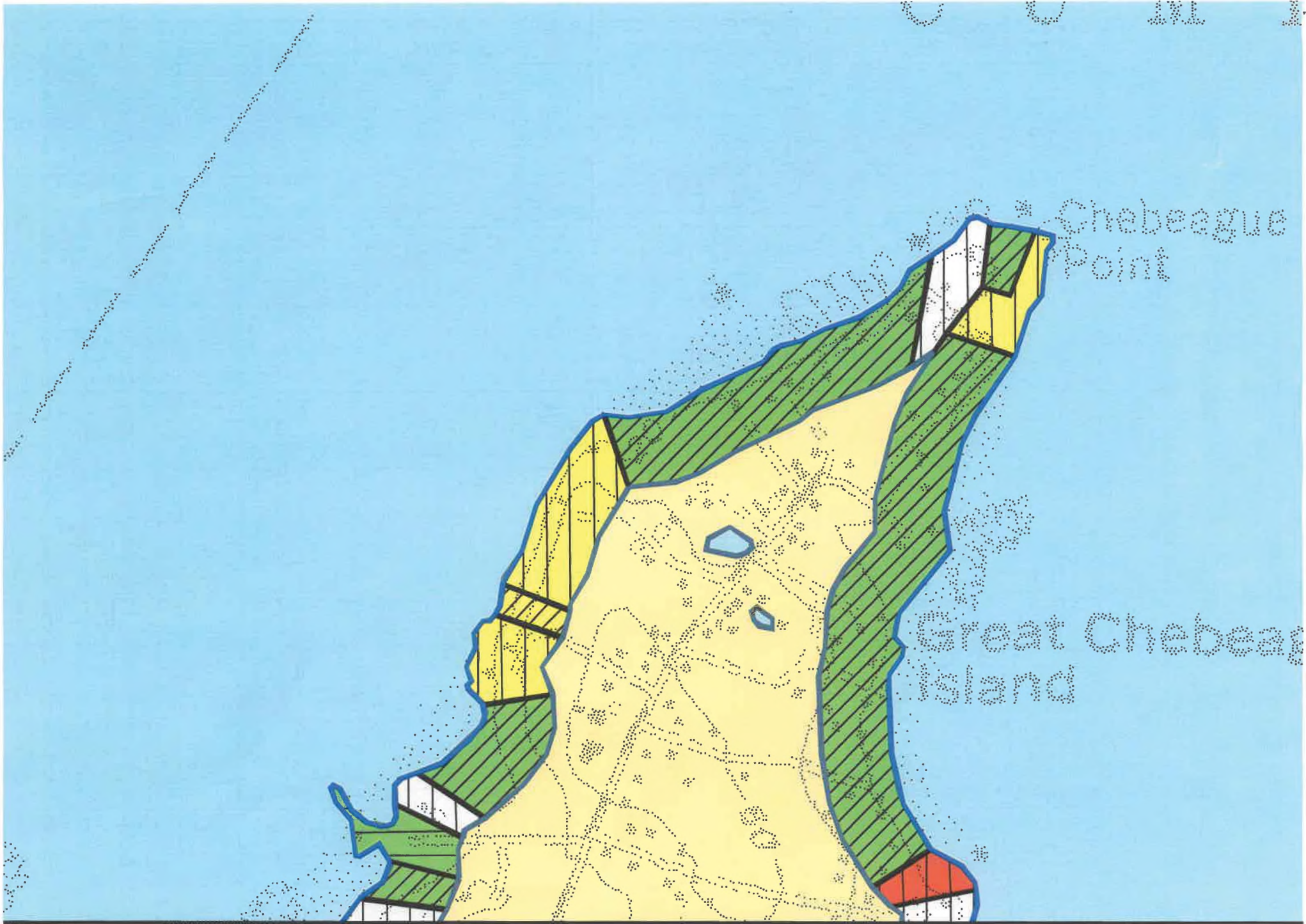
**Bluff Hazards**

Bluff erosion can cause significant damage to property and infrastructure. Bluff erosion can cause significant damage to property and infrastructure. Bluff erosion can cause significant damage to property and infrastructure. Bluff erosion can cause significant damage to property and infrastructure. Bluff erosion can cause significant damage to property and infrastructure. Bluff erosion can cause significant damage to property and infrastructure.



**Bluff face showing erosion and a building nearby.**  
 This photograph shows a bluff face with significant erosion. A building is visible in the foreground, illustrating the potential hazard of bluff erosion to property.





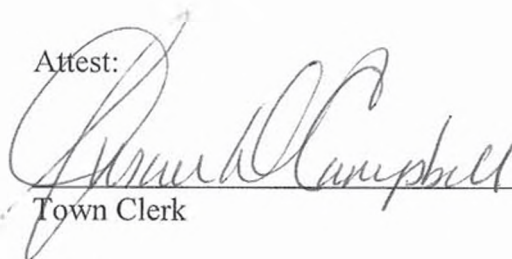


# **SOLID WASTE FACILITY ORDINANCE**

**of the Town of Chebeague Island  
MAINE**

Adopted by the Town Meeting:  
Effective: June 4, 2011

Attest:

A handwritten signature in cursive script, appearing to read "Sarah Campbell", written over a horizontal line.

Town Clerk

Seal:

#### SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “SOLID WASTE FACILITY ORDINANCE in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

#### SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to protect public health and safety while complying with 38 M.R.S.A. § 1305 which requires a municipality to accept locally generated waste. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001 and 38 M.R.S.A. § 1310-U.

#### SECTION 103. DEFINITIONS

- a) **Solid Waste Facility.** The term ‘Solid Waste Facility’ or ‘the Facility’ shall refer to the waste transfer station centrally located on the Parcel identified on Tax Map I6 as Lot 6. For the purpose of this ordinance the Facility includes the closed landfill, the brush pile and wood chip area and the fenced in area on this Parcel. It does not include the wooded area beyond. It does not include the Public Works Garage and Yard on the Northerly portion -of the Parcel.
- b) **Commercial Use.** For the purpose of this ordinance commercial use of the facility occurs whenever waste items brought to the facility are generated as a result of commercial activity including but not limited to: food preparation, building contractors, service providers, fisherman and retail establishments.
- c) **Waste Items.** Any item intended to be discarded including items considered as waste, refuse and debris within 38 M.R.S.A. § 1303C.
- d) Definitions in 38 M.R.S.A. § 1303C shall apply to this chapter. Any words not otherwise defined therein shall be given their common and ordinary meaning.

#### SECTION 104. WASTE AREAS

- a) The Facility may have the following designated areas to accept specific waste streams: Compactable, Recyclable, Construction and Demolition, Metal Goods, White Goods, Universal Waste and Brush Pile.
- b) The Board of Selectmen may adopt rules by majority vote of the Board of Selectmen in order to specify acceptable and not acceptable waste items for each of the waste areas identified in Section 104(a), 0, Section 107, Section 108 and Section 109 in compliance with 38 M.R.S.A. § 1305.
- c) The attendant may temporarily refuse any of the waste items identified in Section 104(a), 0, Section 107, Section 108 and Section 109 if areas or containers are full. The attendant may also temporarily provide alternate methods of handling these waste items as long as public safety is protected and these practices do not conflict with State rules and regulations. It is a violation of this ordinance to place waste items in areas that have been closed by the attendant under this section.

Town of Chebeague Island Code of Ordinances  
 Chapter 13 – Public Works  
 Article 1 – Solid Waste Facility

- d) It is a violation of this ordinance to dispose of waste items in any area within the municipality (land or sea) not specifically designated for that item under this chapter. Each waste item may be considered a separate violation under this chapter.

SECTION 105. FEES

The Board of Selectmen may, in accordance with Ch 11 Art. II Section 109(s) of the Town Code of Ordinances, establish a fee schedule for waste items consistent with this section:

Waste Type	Can have a fee?
Compactable	Fees may apply to commercial use only
Recycle	No fees may apply
Construction and Demolition	Fees may apply to all use
Metal Goods	Fees may apply to all use
White Goods	Fees may apply to all use
Universal Waste	Fees may apply to all use
Brush Pile	Fees may apply
Bulky Waste	No fees may apply
Hazardous Waste	No fees may apply
Waste Oil	No fees may apply

Nonprofit civic, social or charitable organizations with a principal place of business in the Town of Chebeague Island that are eligible for federal income tax exemption by being described in Section 501(c) of the U.S. Internal Revenue Code are exempt from all fees at the Facility.

SECTION 106. OTHER AREAS

The Board of Selectmen may define other areas of the Facility for the purposes listed in this section and create rules for their operation including agreements with island organizations (e.g. Chedemption) or businesses to operate these services for the benefit of the public as long as they do not interfere with the uses defined in other sections of this chapter.

- a) Returnable bottle Area.
- b) Swap Area.

SECTION 107. BULKY WASTE

The Town shall designate at least one weekend between June 1<sup>st</sup> and September 1<sup>st</sup> each year as “Bulky Waste Weekend” and advertise it to the community in advance. Items too large to be considered ‘compactable’ may be brought to the Facility during regular operating hours where Public Works employees will accept them and place them in waste containers for transport off-island. Except for commercial use no disposal fees are

imposed for bulky waste during this period; at other times these items may be brought to the facility but they will be subject to any fees set for construction and demolition debris. Fees may apply for commercial use bulky waste items.

The Board of Selectmen may suspend this service for a year if it finds insufficient demand for the service.

#### SECTION 108. HAZARDOUS WASTE

The Town shall designate at least one weekend between June 1<sup>st</sup> and September 1<sup>st</sup> every other year as “Hazardous Waste Weekend” and advertise it to the community in advance. The Town will contract with a licensed hazardous waste hauler to collect specific waste items designated as hazardous at the Facility, Public Works Garage or any other designated site and transport it off-island to a suitable facility.

The Board of Selectmen may suspend this service for a year if it finds insufficient demand for the service.

#### SECTION 109. MOTOR VEHICLE WASTE OIL

Motor vehicle waste oil may not be accepted or stored at the Facility but may be collected at the Public Works Garage for the purpose of burning in the building heating plant. Public works employees may refuse to accept waste oil if there is inadequate storage or it cannot be reused in the heating plant for any reason. Waste oil will be safely and securely stored at the Public Works Garage prior to reuse.

#### SECTION 110. HOURS OF OPERATION

The Board of Selectmen may adopt rules setting the regular hours of operation for the Facility except that the Facility must open for at least two days per week during the winter season and at least three days per week in the summer season excepting holidays. The regular hours of operation must be clearly posted at the Facility entrance. The Board of Selectmen may temporarily close the Facility for Town Meeting, cemetery services, weather or any reason that might reasonably endanger or inconvenience public health, safety and wellbeing. An attendant must be at the facility during all hours of operation.

#### SECTION 111. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the Town Administrator and may be enforced by the Board of Selectmen, Code Enforcement Officer or Law Enforcement Officer with jurisdiction in the Town of Chebeague Island.

#### SECTION 112. WASTE REMOVAL

The Board of Selectmen is authorized to enter into contracts or agreements with entities to properly dispose of all items collected at the facility.



Town of Chebeague Island Code of Ordinances  
Chapter 13 – Public Works  
Article I – Solid Waste Facility

SECTION 113. PENALTIES

Any violation of this Ordinance shall be a civil infraction subject to a fine of \$100. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of prosecution and reasonable attorney fees and costs.

SECTION 114. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

SECTION 115. SEVERABILITY

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



**Solid Waste Facility Policy**  
**Operating Rules and Regulations**

1. Purpose and Authority

The Town of Chebeague Island adopted a Solid Waste Facility ordinance on June 4<sup>th</sup>, 2011 (Chapter 13, Article I). The ordinance authorizes the Board of Selectmen to create and maintain certain rules and regulations. The purpose of this document is to create operating rules and regulations in accordance with the Solid Waste Facility ordinance and applicable Maine Department of Environmental Protection rules and regulations.

2. Enactment

This policy is enacted upon a majority vote of the Board of Selectmen (The Board) and may be amended or repealed from time to time by the Board or by Town Meeting.

3. Review and Amendments

It is the policy of The Board that this document is reviewed annually by the solid waste facility attendant and the Town Administrator and recommendations considered by The Board.

4. Hours of Operation

The regular operating hours for the solid waste facility are in the table below. The attendant may close the facility without warning in cases where public safety may be compromised. The Board of Selectmen, at any public meeting, may temporarily close the facility for special occasions as they deem appropriate. The exact date for the start of Summer and Winter hours is determined annually by the Town Administrator.

	<b>WINTER</b>	<b>SUMMER</b>
<b>Wednesday</b>	<b>1:30 pm to 4:00 pm</b>	<b>1:30 pm to 5:00 pm</b>
<b>Friday</b>	<b>1:30 pm to 4:00 pm</b>	<b>1:30 pm to 5:00 pm</b>
<b>Saturday</b>	<b>9:00 am to 4:00 pm</b>	<b>9:00 am to 5:00 pm</b>
<b>Sunday</b>	<b>9:00 am to 4:00 pm</b>	<b>9:00 am to 5:00 pm</b>

No individuals, town employees, contractors or others may bring waste to the facility or remove items other than during operating hours without written consent from the Board of Selectmen.

5. Designated Waste Areas

The enabling ordinance designates separate areas for different waste items. This allows the town to optimize the handling of waste reducing the cost to the tax payers. The table below defines representative items for each stream. The attendant is ultimately responsible for directing a particular item to the proper area.

Area	Type	Fee allowed	Acceptable Waste (Representative list)
Waste	Compactor	No	Regular waste produced by households or small commercial enterprises. No universal or hazardous waste should be placed in the waste compactors.  Each compactor container can accept a limited number of Vehicle tires. Tires are placed in a separate staging area and the attendant will place them in the compactor at appropriate times.
Recycle	Compactor	No	Newspapers & Inserts, Magazines, Mail & Catalogs, Paper Bags, Office Paper & Envelopes, File Folders, Wrapping Paper, Phone Books, Hard Cover Books, Paper Plates (clean), Milk & Juice Cartons, Drink Boxes & Aseptic Containers, Cardboard Boxes, Cereal Boxes, Gift Boxes, Pizza Boxes, Water Bottles, Milk Jugs, Detergent Bottles, All containers marked with a #1-#7 (except Styrofoam), Plastic Grocery/ Shopping Bags marked with a #2 or #4, Tin Cans, Aerosol Cans (empty), Aluminum Cans/Foil, Pots & Pans, All glass Bottles & Jars
Construction and Demolition	Container	Yes	Debris created during construction, demolition or remodeling except for items required to go into the universal, hazardous, metal or white goods waste stream.
Metal Goods	Container	Yes	Scrap metals are recycled.
White Goods	Area	Yes	Appliances such as refrigerators, freezers and air conditioners.
Universal Waste	Area	Yes	CRTs—Cathode Ray Tubes (computer monitors, TVs), Fluorescent lamps (also mercury vapor, neon, metal halide, HID and HPS, Mercury-containing thermostats, Intact PCB-containing lighting ballasts), Batteries (Ni-Cd, metal hydride, lithium... and including all vehicle batteries), Mercury thermometers.
Brush Pile	Area	No	

6. Hazardous Waste Collection

The Town of Chebeague Island designates a weekend about once every two years where hazardous waste (particularly liquids) can be brought to the facility and are collected by a licensed hazardous waste transporter who transports them off island.

Hazardous waste includes: Oil-based Paints, Resins & Adhesives, Oil, Gasoline, Kerosene, Antifreeze, Windshield washer fluid, Solvents & thinners, Pesticides & herbicides, Acids.

Also accepted as household hazardous waste are: NiCd batteries, Fluorescent lamps, Mercury & mercury devices, Television & computer monitors and Aerosols.

7. Bulky Waste

The Town of Chebeague Island designates a weekend about once every year where bulky waste can be brought to the facility, are collected by the public works crew, placed in containers and transported off the island.

The intent of this service is to allow large waste items generated by residents and other non-commercial entities to be disposed of with no fees applied. These are items that could normally be placed in the metal or construction and demolition containers that are too large for the compactors. During normal operation these items may be subject to a fee.

Waste items not allowed in the bulky waste containers include appliances requiring special handling (for example air conditioners and refrigerators with Freon), Special or hazardous waste items.

Residents are encouraged to notify the Town Office of their intent to bring large items such as small boats to assure that they can be safely and efficiently processed.

Adopted on: 06-04-2011 YES \_\_\_ NO \_\_\_      Attested: 

Revised on: \_\_\_\_\_ YES \_\_\_ NO \_\_\_      Attested: \_\_\_\_\_



# Chapter 11: ADMINISTRATION

## ARTICLE V: ADOPTION BY REFERENCE

SPECIAL AMUSEMENT ORDINANCE of the Town of Cumberland, Maine adopted by reference by the Town of Chebeague Island, Maine, pursuant to 30-A M.R.S. § 3003(2).

Adopted by Town Meeting: July 1, 2007, effective July 1, 2007.

The Town of Cumberland [Chebeague Island] hereby ordains the following to be a Special Amusement Ordinance:

### SECTION I TITLE, PURPOSE & DEFINITIONS

#### A. Title

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Cumberland, Maine [Chebeague Island].

#### B. Purpose

The purpose of this Ordinance is to control the issuance of special permits as required by Section 702 of Title 28 of the Maine Revised Statutes, for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor.

#### C. Definitions

1. Entertainment: For the purposes of this Ordinance, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.
2. Licensee: Includes any person, individual, partnership, firm, association, corporation, or other legal entity which is the holder of a license for the sale of liquor to be consumed on premises owned by said licensee, or any agent or employee of any such licensee.

## SECTION II SPECIAL AMUSEMENT PERMIT

### A. Application

1. No licensee for the sale of liquor to be consumed on his licensed premises, shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises is situated a special amusement permit.
2. Applications for all special amusement permits shall be made in writing to the Town Council [Board of Selectmen] and shall state the name of the applicant; his resident address; the name of the business to be conducted; his business address; the nature of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be required by the Town Council [Board of Selectmen] prior to the issuance of said permit, including but not limited to a copy of the applicant's current liquor license.
3. No permit shall be issued for any thing or act, or premises, if the premises and building to be used do not fully comply with all ordinances, codes and regulations of said Town.
4. The amount of said fee shall be set by the order of the Town Council [Board of Selectmen].
5. A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee as defined in the Maine Revised Statutes who has been issued a special amusement permit may charge admission in designated areas approved in said permit.

### B. Hearing

1. The Town Council [Board of Selectmen] shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within fifteen (15) days of receipt of a completed application, at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.



2. The permit may be granted subject to such conditions and restrictions as the Council [Board of Selectmen] may deem necessary.
3. A permit shall be valid only for the license year of the applicant's existing liquor license.

C. Inspections

1. Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any municipal ordinance, code or regulation or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of said Town authorized to make the inspection at any reasonable time that admission is requested.
2. In addition to any other penalty which may be provided, the Town Council [Board of Selectmen] may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection, or who interferes with such officer, official, or employee while in the performance of his duty. Provided that no license or special amusement permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.

D. Suspension or revocation

The Town Council [Board of Selectmen] may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this Ordinance on the ground that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare or violates any municipal regulations.

E. Appeals

1. Any licensee requesting a special amusement permit from the Town Council [Board of Selectmen] shall be notified in writing of its decision no later than fifteen (15) days from the date his application was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit has been denied.

2. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within thirty (30) days of the denial, suspension or revocation, appeal the decision to the Superior Court.

### SECTION III RULES AND REGULATIONS

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

Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

### SECTION IV PENALTY, SEPARABILITY AND EFFECTIVE DATE

#### A. Penalty

Anyone found guilty of violating any provisions of this chapter shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Each day such violation continues shall be deemed to be a new offense.

#### B. Separability

If any section or provision, or part thereof of this Ordinance shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the Ordinance as a whole or of any other section or provision or part thereof.

#### C. Effective Date

The effective date of this Ordinance shall be July 26, 1978. Adopted by reference by the Town of Chebeague Island, Town Meeting July 1, 2007, effective July 1, 2007

Town of Chebeague Island Code of Ordinances  
Chapter 17 – Land Use & Planning  
Article V11 – Street Naming and Numbering Ordinance

## **Street Naming and Numbering Ordinance of the Town of Chebeague Island, Maine**

Adopted by the Town Meeting:  
June \_\_, 2015  
Effective June \_\_\_\_, 2015  
Attest:

Town Clerk

Seal:

## **Section 1. Title and Purpose**

This ordinance will henceforth be known as the "Street Naming and Numbering Ordinance." The purpose of this ordinance is to enhance the easy and rapid location of structures by public safety and emergency services personnel and postal delivery in the Town of Chebeague Island.

## **Section 2. Authority**

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

## **Section 3. Administration**

This ordinance shall be adopted by the Municipal Officers and shall be administered by the Code Enforcement Officer. The Municipal Officers are authorized to and shall assign street names, both on existing and proposed streets. The Code Enforcement Officer is authorized to assign numbers to all properties, in accordance with the criteria in Sections 5 and 6 of this ordinance. The Code Enforcement Officer shall be responsible for maintaining the following official records of this ordinance:

- a. A Chebeague Island map for official use showing street names and numbers.
- b. An alphabetical list of all property owners as identified by current tax records, by last name, showing the assigned numbers.
- c. An alphabetical list of all streets with property owners listed in order of their assigned numbers.

## **Section 4. Naming System**

All streets that serve two or more structures shall be named regardless of whether the ownership is public or private. "Street" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel or dirt thoroughfare. "Property" refers to any property on which a more or less permanent structure has been erected or could be placed. All proposed names for streets shall be reviewed by the Municipal Officers prior to approval. A street name assigned by the municipality shall not constitute or imply acceptance of the street as a public way.

The following criteria shall govern the naming system:

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

## **Section 5. Numbering System**

The following criteria shall govern the numbering system:

- a. Numbers shall be assigned every 50 (fifty) feet along both sides of the street, with even numbers appearing on one side of the street and odd numbers appearing on the other side of the street, as the numbers ascend. A 25-foot or less interval may be applied in more densely structured areas.
- b. All number origins shall begin from the east and continue west and from the south and continue north. For dead end streets, numbering shall originate at the intersection of the adjacent street and terminate at the dead end.
- c. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or the driveway of said structure if the front door cannot be seen from the main street.
- d. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy, i.e. duplexes will have two separate numbers; apartments will have one street number with an apartment number, such as 235 Maple Road, Apt 2.
- e. Corner lots should be assigned a number according to where the front door faces the street. There may be instances, however, when a corner lot might be numbered based on its driveway, if it makes sense from an emergency responder perspective.

## **Section 6. Responsibility of Owner**

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

- a. **Number on the Structure or Residence.** Where the residence or structure is within 50 (fifty) feet of the edge of the street right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.

- b. Number at the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the street right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure.
- c. Size, Color, and Location of Number. Numbers shall be of a color that contrasts with their background color and shall be a minimum of four (4) inches in height. Numbers shall be located to be visible from the street at all times of the year.
- d. Proper number. Every person whose duty is to display an assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- e. Interior location. All residents and other occupants are requested to post their assigned number and street name adjacent to their telephone for emergency reference.

## **Section 7. New Construction and Subdivisions**

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

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

## **Section 8. When Effective**

This chapter shall become effective immediately. The provisions of this chapter shall be enforced by the Code Enforcement Officer. Appeals of decisions by the or Code Enforcement Officer shall be made to the Board of Adjustment and Appeals as permitted in Chapter 603.4, Zoning Districts and Enforcement. It shall be the duty of the

Municipal Officers or its designee to notify by mail each property owner and the post office of a new address at least 30 days before the effective date of its use. It shall be the duty of each property owner to comply with this chapter, including the posting of new property numbers, within 30 days following notification. On new structures, numbering will be installed before final inspection or issuance of certificate of occupancy, whichever comes first.

# **SUBDIVISION ORDINANCE**

**of the Town of Chebeague Island  
Maine**

**PROPOSED FOR ADOPTION AT TOWN MEETING**

**JULY 1, 2007**

**CHEBEAGUE RECREATION CENTER GYMNASIUM  
8:00 A.M.**





Submitted By The Transition Representatives for the Island of Chebeague:

Dated: June 20, 2007

Donna Damon  
Donna Damon

David Hill  
David Hill

Jim Phipps  
Jim Phipps

Steve Todd  
Steve Todd

Beth Howe, Secretary  
Beth Howe, Secretary

John Martin, Chair  
John Martin, Chair

Mark Dyer  
Mark Dyer

Leon Hamilton  
Leon Hamilton

Doug Ross  
Doug Ross

Carol White  
Carol White

A true copy of the proposed ordinance,

Diane Marquis Greene  
Notary Public, Maine  
My Commission Expires November 5, 2013

Attest: Diane Marquis Greene  
Justice of the Peace/Notary Public

\*\*\*\*\*

RETURN ON THE WARRANT

Chebeague Island, Maine

June 20, 2007

Pursuant to the Act of Incorporation and 30-A M.R.S. § 3002(1), I have notified and warned the inhabitants of the Town of Chebeague Island, qualified as herein expressed, to meet at said time and place, for the purposes of considering the afore-referenced Ordinance, and other municipal business, by placing an attested copy of said Ordinance at the Chebeague Island Library, in said Town, being a public and conspicuous place in said Town, on the \_\_\_ day of June 2007, being at least seven days before the meeting.

Resident of Chebeague Island  
Resident of Chebeague Island

# SUBDIVISION ORDINANCE

of the Town of Chebeague Island  
MAINE

Adopted by the Town Meeting: July 1, 2007

Effective: July 1, 2007

Attest:



Town Clerk

Seal:

KAREN MICHELE HAMILTON  
Notary Public, Maine  
My Commission Expires May 9, 2014

**TOWN OF CHEBEAGUE ISLAND SUBDIVISION ORDINANCE**

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**TOWN OF Chebeague Island  
SUBDIVISION ORDINANCE**

**SECTION 1. PURPOSE**

1.1 The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Chebeague Island, Maine, the Planning Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
  - A. The elevation of the land above sea level and its relation to the flood plains;
  - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
  - C. The slope of the land and its effect on effluents;
  - D. The applicable state and local health and water resource rules and regulations;
2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;
6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal.

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;
8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;
11. Surface waters: Whenever situated within 250 feet, horizontal distance, of any wetland as defined in Title 38, Maine Revised Statutes, Ch. 3, SubCh. I, Art. 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;
12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. 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 foot above the 100-year flood elevation;
14. Storm water. The proposed subdivision will provide for adequate storm water management;

15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S. § 4401(2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district; and
16. River, stream or brook. Any river, stream, or brook within or abutting the proposed subdivision has been identified on any map submitted as a part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Maine Revised Statutes, Sec. 480-B, Subsec. 9, as amended.

## **SECTION 2 AUTHORITY AND ADMINISTRATION**

### **2.1 AUTHORITY**

- A. This Ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S. §§ 4401 *et seq.*
- B. These standards shall be known and may be cited as "Town of Chebeague Island Subdivision Ordinance."

### **2.2 ADMINISTRATION**

- A. The Planning Board of the Town of Chebeague Island, hereinafter called the Board, shall administer this Ordinance.
- B. The provisions of this Ordinance shall pertain to all the land proposed for subdivision as herein defined within the boundaries of the Town of Chebeague Island .

## **SECTION 3 DEFINITIONS**

- 3.1** In general, words and terms used in these standards shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

**A. Byway:**

A traffic way alongside or adjacent to one side of the paved portions of roads to be used by persons including, but not limited to, pedestrians, bicyclists, and handicapped persons operating motorized wheelchairs and which otherwise specifically excludes motorized vehicles, except as otherwise provided in this Ordinance or State law. Byways include sidewalks, freewalks and paved shoulders.

**B. Clustered Residential Development or Subdivision:**

A type of development where building lots are smaller with lot frontages that are shorter than those in a traditional subdivision, are grouped on certain portions of the site that are best suited for development, and other areas remain open and free from development. The homes may or may not be connected to the public sewer system.

**C. Comprehensive Plan or Policy Statement:**



Any part or element of the overall plan of policy for development of the Town as defined in Title 30-A, Maine Revised Statutes, Ch. 187.

D. Construction Drawings:

Drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts and underground telephone duct, pavements, cross-section of streets, miscellaneous structures, etc.

E. Easement:

The written authorization of a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property.

F. Engineer:

Municipal Engineer or consulting engineer licensed by the State of Maine.

G. Final Plan:

The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, may be filed for record with the Municipal Clerk and Cumberland County Registry of Deeds.

H. Legislative Body:

Town Meeting.

I. Municipality:

Town of Chebeague Island

J. Net Residential Acreage:

Net residential acreage shall be determined by subtracting from gross acreage available the following:

1. 15% for roads and parking.
2. Land which is cut off from the main parcel by a road, existing land uses, a utility easement or right-of-way or major stream so as to serve as a major barrier to common use, or so that it is isolated and unavailable for building purposes. (Final determination by Planning Board.)
3. Other areas which are difficult to develop in their natural state because of topography, drainage or subsoil conditions. Specific conditions include but are not limited to:
  - (i) Slopes in excess of 20% sustained for 30,000 square feet or more,
  - (ii) Wetlands as defined in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands dated 1/10/89 and as amended from time to time
  - (iii) Land shown to be in a 100 year flood zone as shown on the Flood Insurance Rate Map (FIRM)
4. Land in rights-of-way or easements, but not including land in open space easements under Sec. 406 of the Zoning Ordinance A.
5. Resource Protection Districts

K. Official Zoning Map:

The most current Zoning Map adopted by the Town Meeting, as amended from time to time.

L. Official Submittal Date:

The time of submission of a Pre-application Plan, Preliminary Plan, or Final Plan shall be considered the submission date of the application for such Plan approved to the Board, complete and accompanied by any required fee and all data required by these standards.

M. Person:

Includes a firm, association, organization, partnership, trust, company or corporation, individual, or other legal entity.

N. Planning Board:

The Planning Board of the Municipality created under Title 30-A, Maine Revised Statutes, Sec. 3001.

O. Planting Screen Easement:

A visual buffer consisting of dense vegetation sufficient to substantially screen the use indicated.

P. Preliminary Plan:

The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Q. Required Improvements:

The following are required improvements: monuments, street signs, street lights, streets, sidewalks, water supply, sewage disposal and storm drainage, lighting and signing and pavement markings for traffic control, walking and biking trails, erosion control, or other improvements required by the Board, except where the Board may waive or modify such improvements in accordance with the provisions of these standards]

R. Resubdivision:

The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

S. Sketch Plan

A non-engineered plan based on topography, wetlands, steep slopes, water bodies, appropriate septic locations if applicable, and as further defined in Section 4.4A of this ordinance.

T. Street:

Public and private rights-of-ways such as alleys, avenues, boulevards, roads, and highways.

U. Structure:

Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind.

V. Subdivision

A subdivision shall be as defined by 30-A M.R.S. § 4401, as amended from time to time. Lots of 40 or more acres shall not count as lots for purposes of this ordinance when the parcel of land being divided is located entirely outside any shoreland area as defined in 38 M.R.S. § 435, as amended from time to time.

W. Subdivision, Major:

Any subdivision containing more than four lots; or requiring new streets or private ways, or extensions of existing streets or private ways; or construction and/or extension of public utilities, or any subdivision proposing that any of its lots not meet the minimum area or lot requirements of the zones in which they are located.

X. Subdivision, Minor:

A subdivision containing not more than four (4) lots, and not otherwise requiring classification as a major subdivision, as defined in Section 3.1(Y).

Y. Traditional Residential Development or Subdivision:

A type of development where building lots are at least the minimum lot size for the district in which it is located. A small portion of the lot may remain open and free from development.

## **SECTION 4 SUBDIVISION APPLICATION PROCEDURES**

### **4.1 GENERAL PROCEDURES**

Classification of a proposed project as either a minor or major subdivision shall be made by the Code Enforcement Officer, subject to Planning Board approval at the time of the initial application submission. Once the project is so classified, the applicant shall follow the applicable procedures in Section 4.3 or Sections 4.4. The pre-application conference step Section 4.2, is recommended but not mandatory for minor subdivisions. A copy of the required application form is included as Appendix A of this Ordinance. The Subdivision Review Fee Schedule is established by order of the Board of Selectmen. Outside consulting fees shall be charged in accordance with Section 608 of the Zoning Ordinance. Appendices C and D list the submission requirements for minor and major subdivision plans respectively. Overall Subdivision Review sheets for minor and major subdivision plans are included in Appendix E and Appendix F respectively. An application checklist for minor subdivision plans is included in Appendix G. Appendix H contains an application checklist for preliminary major subdivisions, and Appendix I

contains an application checklist for final major subdivisions. Appendix J contains an Application Completeness form and Appendix K contains a Notice of Decision form. In all instances throughout the subdivision review process, the burden of proof shall be upon the person or persons proposing the subdivision.

#### 4.2 PRE-APPLICATION CONFERENCE PROCESS

A subdivider may meet with the Planning Board prior to formal submission of a plan to discuss his proposal. A sketch plan of the proposed subdivision and other relevant materials may be presented by the subdivider. The Planning Board may ask questions of the subdivider and make general comments about the proposal.

#### 4.3 REVIEW AND APPROVAL OF PLAN FOR MINOR SUBDIVISION

##### A. General

The Planning Board may, where it deems it necessary for the protection of public health, safety and welfare, require that a Minor Subdivision comply with any or all of the requirements specified for Major Subdivisions.

##### B. Procedures

1. An application for final plan approval, a completed application checklist and ( ) eleven (11) copies of the Final Plan and accompanying materials shall be submitted to the Town Administrator at least twenty-one (21) days prior to the meeting at which it is to be considered, and shall be accompanied by the fee, which is established by order of the Board of Selectmen. If the application is found to be deficient any additional information must be submitted no later fourteen (14) days prior to the meeting at which it is to be considered.
2. <sup>LEO</sup> The Town Administrator shall then determine whether the application is complete or incomplete and shall notify the applicant of the determination in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Town Administrator shall list the materials that must be submitted in order to make the application complete. When the application is determined to be complete, the Town Administrator shall notify the applicant. Any application not determined to be complete within 180 days of the issued receipt date shall become null and void.

3. The Planning Board shall, within 45 days from the date that the application is determined to be complete, or within such other time that may be mutually agreed to by both the Planning Board and the applicant, approve, approve with conditions, or disapprove the Final Plan. The Planning Board shall specify in writing its decision and findings of fact regarding the decision. A separate copy of the written decision and findings of fact shall be maintained apart from the Planning Board minutes and stored in the Town Administrator's files.
4. The Planning Board, at its discretion, may hold a public hearing regarding any proposed minor subdivision within 30 days of the determination of application completeness.

C. Submission Requirements

Minor Subdivision plan submissions shall conform to the standards and requirements contained in Appendix C of this Ordinance.

D. Final Plan Approval & Filing

1. Upon completion of the requirements above and approval of the Final Plan, the Final Plan shall be signed by a majority of the voting members of the Planning Board and shall be filed by the applicant with the Cumberland County Registry of Deeds.
2. Approval of any subdivision plan not filed for recording within 90 days after Final Plan approval shall become null and void. A note referencing this time provision shall be placed upon the Final Plan. The developer shall provide the Town Administrator with the plan book number and page number, upon recording of the subdivision plan.

#### 4.4 REVIEW AND APPROVAL OF PLAN FOR MAJOR SUBDIVISION

##### A. Sketch Plan

1. The purpose of the sketch plan approval is for the applicant to submit concept plans for the following types of subdivisions -- clustered or traditional, and to receive the Board's decision as to which type of development is most appropriate for the site, based upon a consideration of all of the factors set forth in subsection 4. An application for sketch plan review and eleven (11) copies of each sketch plan and accompanying materials shall be submitted to the Town Planner at least twenty-one (21) days prior to the meeting at which it is to be considered. If the application is found to be deficient any additional information must be submitted no later fourteen (14) days prior to the meeting at which it is to be considered.
2. The applicant shall present the sketch plans and make a verbal presentation regarding the site and the proposed development. The Board may ask questions and make suggestions to be incorporated by the developer into the application.
3. The sketch plan shall show, in simple form, the proposed layout of streets, lots, building envelopes, and proposed open spaces. The plan shall include a delineation of topography, wetlands, steep slopes, water bodies, adequate septic system locations, if applicable, and other known natural features.
4. The Board shall determine which type of subdivision best suits the property in relation to the natural features of the land, adjacent properties and neighborhoods, and the characteristics of open space to be maintained, if applicable.
5. The applicant shall be given a decision at the meeting what type of development is most appropriate, or be told what additional information is necessary for the Board to make a decision. The Board shall specify in writing its decision within 10 days of the meeting.
6. The type of subdivision development approved at the sketch plan meeting shall not be changed unless the Board finds that unforeseen circumstances require the decision to be altered.
7. The acceptance of a sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S. § 302.

8. Following the sketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions shall be maintained in the file.

B. Preliminary Plan Procedures

1. An application for preliminary plan approval, a completed application checklist and eleven (11) copies of the Preliminary Plan and accompanying materials shall be submitted to the Town Administrator at least twenty-one (21) days prior to the meeting at which it is to be considered, and shall be accompanied by the fee as established by order of the Board of Selectmen. If the application is found to be deficient, all additional information must be submitted no later than fourteen (14) days prior to the meeting at which it is to be considered.
2. The Town Administrator shall determine whether the application is complete or incomplete and shall notify the applicant of the determination in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Town Administrator shall list the materials that must be submitted in order to make the application complete. Any application not determined to be complete within 180 days of the issued receipt date shall become null and void.
3. A public hearing shall be scheduled within 30 days after the date that the application is determined to be complete, with written notice posted at the Town Office, given to property owners within 500 feet of the proposed subdivision; and written notice to the general public in a newspaper of general circulation in the Town. The Planning Board may, at its discretion, hold any additional public hearings as it deems appropriate. Failure of any property owner or any member of the public to receive a notice of the public hearing shall not necessitate another public hearing and shall not invalidate the action of the Planning Board.
4. The Planning Board shall, within 30 days after the date of the last public hearing, approve, approve with conditions, or disapprove the Preliminary Plan. The Planning Board shall specify in writing its findings of fact and the Board's decision. A separate copy of the written decision and findings of fact shall be maintained apart from the Planning Board minutes and stored in the Town Planner's files. The Planning Board, at its discretion, may require annotations to be placed directly on the Preliminary Plan.
5. Preliminary Plan approval shall not constitute approval of the Final Plan, but rather shall be deemed an expression of approval of the design



submitted on the Preliminary Plan as a guide to preparation of the Final Plan.

C. Preliminary Plan Submission

Preliminary Plan submissions shall conform to the standards and requirements contained in Appendix D of this Ordinance.

D. Final Plan Procedures

1. An application for Final Plan approval and a completed application checklist shall be submitted to the Town Administrator within 180 days after Preliminary Plan approval and at least twenty-one (21) days prior to the meeting at which it is to be considered, along with eleven (11) copies of the Final Plan and accompanying materials. If the application is found to be deficient all additional information must be submitted no later than fourteen (14) days prior to the meeting at which it is to be considered. The 180 day time limit may be extended by the Planning Board, at its discretion, if the subdivider makes a written request for such an extension to the Planning Board prior to the expiration of said 180 day time limit.
2. Prior to submission of the Final Plan application, the subdivider shall have fulfilled the following requirements:
  - (a) Written approval shall be secured by the Maine Department of Environmental Protection, if the proposed subdivision is subject to review by said Department;
  - (b) The proposed water supply system shall be approved in writing by the Maine Department of Human Services if a central water supply system is proposed;
  - (c) A solid waste disposal plan shall be prepared, if deemed necessary by the Planning Board during the Preliminary Plan review process.
  - (d) The proposed surface drainage plan or stormwater management plan and the proposed soil erosion and sediment control plan shall be endorsed in writing by the Cumberland County Soil and Water Conservation District. The soils report shall also be reviewed in writing by the Cumberland County Soil and Water Conservation District.
3. The Town Administrator shall then determine whether the application is complete or incomplete and shall notify the applicant of the

determination decision in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Town Administrator shall list the materials that must be submitted in order to make the application complete.

4. A public hearing may be scheduled by the Planning Board within 30 days after the date of the Final Plan is determined to be complete, with adequate notice given to the general public.
5. Prior to the final plan approval, the Planning Board may grant approval to permit the Plan to be divided into two or more sections and may impose such conditions upon the phases as it deems necessary to insure the orderly development of the subdivision. Each phase shall be reviewed by the Planning Board, both as a potentially independent subdivision and as a section of the total subdivision. Each phase shall constitute at least 25% of the total number of lots contained in the approved final plan.
6. Prior to Final Plan approval, the Planning Board shall set the terms and conditions for a performance bond issued by a licensed bonding company or an irrevocable letter of credit to secure completion of all required public improvements, or restoration of the site as the Town deems appropriate, to be submitted by the subdivider and approved by the Planning Board. All irrevocable letters of credit shall contain a provision requiring the issuer to notify the Town Administrator in writing of the scheduled expiration date within three (3) months of such expiration date. The terms and conditions shall include a maximum 2 year time limit and an inflation clause. In the event that a Final Plan is to be divided into two or more phases, the Planning Board may require that the amount of the performance bond issued by a licensed bonding company or the irrevocable letter of credit be commensurate with the level of improvement to be undertaken in the section or sections to be filed with the Registry of Deeds and may defer the remaining required amount(s) until the remaining sections of the proposed subdivision are ready for filing with the Registry of Deeds. The terms and conditions of the performance guarantee for each phase shall include a maximum two year time limit and an inflation clause.
7. The Planning Board shall, within 60 days after the date that the Final Plan is determined to be complete, or within such other time limit that may be mutually agreed to by both the Planning Board and the applicant, approve, approve with conditions or disapprove the Final Plan. The Planning Board shall specify in writing its findings of fact and the Board's decision. A separate copy of the written decision and findings of fact shall be maintained apart from the Planning Board

minutes and stored in the Town Planner's files. The Planning Board at its discretion may require annotations to be placed directly on the Final Plan.

8. This 60 day time limit may be extended once by 30 days, by the Planning Board, if the Board determines that additional information needs to be secured by the subdivider or the Planning Board.

#### D. Final Plan Submission

Final Plan submissions shall conform to the standards and requirements contained in Appendix D of this Ordinance.

#### E. Final Plan Approval and Filing

1. Upon completion of the requirements above and approval of the Final Plan, the Final Plan shall be signed by a majority of the voting members of the Planning Board and shall be filed by the applicant with the Town Administrator.
2. The performance bond or irrevocable letter of credit, with the terms and conditions previously set by the Planning Board, shall be filed with the Town Administrator before the Final Plan is released for recording by the developer at his expense with the Cumberland County Registry of Deeds.
3. Approval of any subdivision plan not filed for recording within 90 days after Final Plan approval shall become null and void. A note referencing this time provision shall be placed upon the Final Plan. The developer shall provide the Town Administrator with the plan book number and page number, upon recording of the subdivision plan.

### 4.5 PLAN REVISIONS AFTER APPROVAL

- A. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Final Plan, unless said plan is first resubmitted and the Planning Board approves any modifications. Any application for subdivision approval that constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. Approved changes shall be endorsed on the revised Final Plan by the Planning Board, and the Plan as modified should be recorded in the Cumberland County Registry of Deeds within sixty (60) days after such approval. The developer shall provide the Town

Administrator with the plan book number and page number, upon recording of the revised subdivision plan.

#### **4.6 PUBLIC ACCEPTANCE OF STREETS, RECREATION AREAS**

- A. When a street, easement, open space area, park, playground, or other recreation area is shown on the Final Plan, approval of the Plan shall not constitute an acceptance by the Town of such areas. All Plans shall be endorsed with the following note: "The approval of this Plan by the Planning Board does not constitute acceptance by the Town of any street, easement, open space area, park, playground, or other recreation area thereon." The Planning Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title requirement, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such areas.

#### **4.7 TIMES FOR COMMENCEMENT AND COMPLETION OF CONSTRUCTION; PRE-CONSTRUCTION CONFERENCE**

All improvements required by Section 6.1 and all quasi-public improvements required by the Planning Board for approval of the plan shall be completed no later than two (2) years after approval of the final plan (for phased plans, these time periods shall apply separately for each phase approved by the Planning Board); provided, however, the Planning Board may grant an extension for a period not to exceed six (6) months for good cause shown if such application is made prior to the two-year expiration date. Only one such extension may be granted.

Once commenced, all such improvements shall be prosecuted diligently to completion. Construction time shall not exceed six (6) months unless the Planning Board, upon written application and for good cause shown, shall extend the construction period. Prior to commencement of construction there shall be a mandatory pre-construction conference with the developer, his general contractor, the Code Enforcement Officer, the Town Administrator and such other Town officials as deemed appropriate by the Town Administrator to review the proposed construction activities to assure compliance with the requirements of the Ordinance and any special terms of the project's approval. Also, notwithstanding the provisions of Section 4.4 (D) (7) and (E) (2) to the contrary, the Planning Board at time of final approval may authorize a delay in the filing of an effective performance guarantee until the pre-construction conference provided satisfactory evidence of the developer's ability to obtain the same is submitted at time of final plan approval.

## **SECTION 5 ENFORCEMENT**

- 5.1 No plan of a subdivision of land within the municipal boundaries which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the Registry of Deeds until a Final Plan thereof shall have been approved by the Planning Board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in these standards nor until such approval shall have been entered on such Final Plan by the Planning Board.
- 5.2 No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- 5.3 Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this section or who builds or develops a subdivision other than in strict conformance with the requirements of this Ordinance and his approval, including any conditions attached thereto, shall be subject to a civil action seeking injunctive relief to prevent any such violation, restore or repair the land if appropriate, and be further subject to a civil fine, attorney's fees and costs of court as provided under 30-A M.R.S.A. §4452. The municipality or the Code Enforcement Officer may institute such proceedings.
- 5.4 No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Planning Board.
- 5.5 Not only is making a subdivision without Planning Board approval a violation of law, but so also within such a subdivision is grading or construction of roads, grading of land or lots, or construction of buildings until such time as a Final Plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, and endorsed as provided in these standards, and until the original copy of the Final Plan so approved and endorsed has been duly recorded in the Cumberland County Registry of Deeds.

## **SECTION 6 REQUIRED IMPROVEMENTS**

- 6.1 The following are required improvements: monuments, street signs, streets, byways, water supply, sewage disposal, storm drainage, lighting and signing and pavement markings for traffic control, walking and biking trails, erosion control, or other improvements required by the Board, except where the Board may waive or modify such improvements in accordance with the provisions of these standards.

### **6.2 INSPECTION OF REQUIRED IMPROVEMENTS**

- A. At least five (5) days prior to commencing construction of required improvements the subdivider shall:
1. Pay an inspection fee equal to two (2) percent of the cost of the required improvement, or
  2. Pay an inspection fee equal to the estimated cost of inspection by the Town Engineer and/or Public Works Director if any, or
  3. Pay an inspection fee equal to the estimated cost of inspection by an engineer appointed by the Planning Board payable by check to the Town of Chebeague Island, Maine stating the purpose of the fee. The subdivider shall notify the Municipal Officers in writing of the time when he/she proposes to commence construction of such improvements so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements and utilities required by the Planning Board. Any amount in excess of actual cost shall be returned to the developer.
- B. If the Town Engineer, appointed engineer, or Director of Public Works shall find, upon inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by subdivider, he shall so report to the Municipal Officers, Code Enforcement Officer, and Planning Board. The Municipal Officers shall then notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the municipality's right under the bond. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plan.
- C. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer or Town appointed engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer or Town appointed engineer may authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Town Engineer or Town appointed engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

- D. The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.
- E. Upon completion of the subdivision, the subdivider shall notify the municipal officers in writing stating that all improvements have been completed. Along with this statement shall be submitted "as-built" record construction drawings on mylar which were previously approved by the Planning Board.

## **SECTION 7 GENERAL REQUIREMENTS**

**7.1** In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

### **7.2 REVIEW AND APPROVAL BY OTHER AGENCIES**

A. Where review and approval of any subdivisions or site plan by any other governmental agency is required, such approval shall be submitted to the Planning Board in writing prior to the submission of the Final Plan.

### **7.3 SUBDIVISION PLAN SHALL CONFORM TO COMPREHENSIVE PLAN**

A. Any proposed subdivision shall be in conformity with a Comprehensive Plan or policy statement of the municipality and with the provision of all pertinent state and local codes and ordinances.

### **7.4 RELATIONSHIP OF SUBDIVISION TO COMMUNITY SERVICES**

A. Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing services and facilities. The Final Preliminary Plan shall include a list of the construction items that will be completed by the developer prior to the sale of lots; and the list of construction and maintenance items that must be borne by the municipality, which shall include, but not be limited to: Schools, including busing; Road maintenance and snow removal; Police and fire protection; Solid Waste disposal; Recreation Facilities; Runoff water disposal drainage ways and/or storm sewer enlargement with sediment traps.

B. The Board may require the developer to provide a Community Impact Statement to the Town for the above services.

### **7.5 RETENTION OF PROPOSED PUBLIC SITES AND OPEN SPACES**

A. Depending on the size and location of the subdivision, the Board may require the developer to provide up to 10% of his total area for recreation. It is

desirable that areas reserved for recreation be at least 5 acres in size and easily accessible from all lots within the subdivision.

- B. Land reserved for park and/or recreational purposes shall be of a character, configuration and location suitable for the particular use intended. A site to be used for active recreational purposes, such as a playground or a playfield, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and shall have no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.
- C. Where the proposed subdivision is located on a lake, pond, river, or stream, a portion of the waterfront area, when feasible, shall be included in the reserved land. The land so reserved shall be at least 200 feet wide measured perpendicularly from the normal high water mark.
- D. The Board may further require that the developer provide space for future municipal uses, in accordance with a Comprehensive Plan or policy statement, giving the Town first option on the property.
- E. The Planning Board may require the developer to dedicate easements not less than ten (10) feet wide to the Town over those areas of the subdivision that are shown on the Town's Greenbelt Map enacted as part of the Town's ordinances. Such easements shall be for the benefit of the public and the Town shall have the right, but not the obligation to maintain such easements. Any such dedication must be made through appropriate legal instruments approved by the Town attorney.
- F. The Planning Board may require the developer of a mobile home park to provide public open space for passive recreation, in an area and location to be determined by the Board, for the purpose of providing recreational opportunities for residents of the mobile home park.

## **7.6 PRESERVATION OF NATURAL AND HISTORIC FEATURES**

- A. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" diameter or more), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic, or environmentally desirable areas. The street and lot layout shall be adapted to the topography and extensive grading and filling shall be avoided.



The board shall require the developer to identify any historic buildings or sites and/or historic or pre-historic archaeological sites.

## **7.7 LAND NOT SUITABLE FOR DEVELOPMENT**

A. The Board shall not approve any plan for development that would alter the natural state of any of the following types of land:

1. Are located within the 100 year frequency flood plain as identified by an authorized Federal or State agency, or when such identification is not available, are located on flood plain soils identified and described in the National Cooperative Standard Soil Survey.
2. Are located on land which must be filled or drained or on land created by diverting a watercourse; except the Board may grant approval if a central sewage collection and treatment system is provided. In no instance shall the Board approve any part of a subdivision located on filled tidal wetlands.
3. Contain soils unsuitable for construction and development of structures due to their very severe limitations of drainage, flooding, organic nature of settlement properties, including Chocorua, Whately, Sebago, Saco, Saco-Limerick, Borohemists, Borosaprists, and Sulfihemists.

## **7.8 BLOCKS**

A. The length, width and shape of blocks shall be determined with due regard to:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
2. Zoning requirements as to lot sizes and dimensions;
3. Needs for convenient access, circulation, control and safety of street traffic;
4. Limitations and opportunities of topography.

B. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 30-foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a five (5) foot wide paved foot path be included.

## 7.9 LOTS

- A. The lot size, depth, width, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
- C. The subdividing of the land shall be such as to provide that all lots shall have a minimum lot frontage on a street which conforms to the requirements set by the Town of Chebeague Island Zoning Ordinance.
- D. Double frontage lots (lots with frontage on two streets that are opposite each other) shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- E. A subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty (50) feet in width along all existing public streets.

Buildings shall be restricted from open fields, and shall be located within forested portions of the subdivisions. When the subdivision contains no forest or insufficient forested portions to include the buildings, the subdivision shall be designed to minimize the appearance of buildings when viewed from existing public streets.

- F. Side-lot lines shall be substantially at right angles or radial to street lines.
- G. Where a tract is subdivided into lots substantially larger than the minimum size required in the Zoning District in which a subdivision is located, the Board may require that street and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these standards.
- H. Subdivision lots with frontage on both the collector street and the subdivision road shall be on a lot of at least 4 acres. The existing land cover on these lots shall be preserved for a depth of at least 75' along the collector street. Buildings on these lots shall be sited in a manner which minimizes impacts on areas such as farmlands, wildlife habitats, scenic areas and other significant natural resources.

## 7.11 UTILITIES

- A. The size, type and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Board and installed in accordance with local practice.
- B. Utilities shall be installed underground except as otherwise approved by the Board.

#### **7.14 WATER SUPPLY**

- A. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
- B. Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is not economically or technically feasible to develop other ground water sources.
- C. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
- D. The subdivider shall demonstrate by actual test that water meeting State of Maine Rules of the Department of Health and Human Services Relating to Drinking water can be supplied to the subdivision at the rate of at least 350 gallons per day per dwelling unit..
- E. The subdivider shall demonstrate by engineering reports prepared by a civil engineer registered in the State of Maine, that the proposed subdivision will not result in an undue burden on the sole source aquifer of the island.
- F. The Planning Board may require the developer at his cost to evaluate the effect of withdrawal of groundwater if on-site groundwater supply wells are proposed. An analysis of lowering of the water table during pumping, ground subsidence, reduction in groundwater recharge, saltwater intrusion and/or modification of groundwater flow patterns may be required. The analysis may require pump testing of on-site wells or measurements of soil and/or rock permeability, measurement of existing groundwater levels, soil borings, and/or installation of groundwater observation wells.
- G. No development or use of land shall lower the groundwater table more than 10 feet, reduce on-site groundwater recharge by more than 20 percent, cause saltwater intrusion, undesirable change in groundwater flow patterns, or cause ground subsidence of more than 1 inch on abutting property. If the

analysis of groundwater withdrawal (Section 7.14 F above) shows that one or more of these effects will occur, that will be the basis for denial of the application.

- H. If a central water supply system is provided by the subdivider, location and protection of the source, and design, construction and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the State of Maine Rules of the Department of Human Services Relating to Drinking Water

## 7.15 SEWAGE DISPOSAL

- A. Sewage disposal shall be by private subsurface waste water disposal systems or by a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.
- B. A developer shall submit plans for sewage disposal designed by a professional engineer and/or licensed site evaluator, as appropriate, in full compliance with the requirements of the State of Maine Plumbing Code, except as noted herein or in the Zoning Ordinance.
- C. The Board may require a hydrogeologic evaluation where it is concerned about possible groundwater or surface water contamination. Any cluster system shall require a hydrogeologic investigation. The investigation could involve soil borings and installing groundwater observation wells, measurement of groundwater elevation at wells, estimation of the direction and rate of ground water flow, hydraulic mounding estimate beneath any leachfield, measurement of existing groundwater and/or surface water quality, identification of existing water supply wells or springs on abutting properties, and a projection by analytical methods of groundwater and/or surface water quality within and at the property boundaries as a result of development.
- D. The Developer shall specify the location, both horizontally and vertically, of on-site well and septic systems to avoid contamination of proposed or existing water supplies by septic system effluent. Any septic system must be placed at least 100 feet from any existing well, whether the well is on the property or on contiguous property. No development or use of land shall result in existing groundwater quality exceeding 50 percent of the physical, biological, chemical and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S. § 601. If existing groundwater quality is inferior to the State Drinking Water Regulations, the developer or land owner will not degrade the water quality any further. This criterion shall apply to the property boundaries existing and proposed water supply wells and springs. If

the hydrogeologic evaluation and projection of groundwater and/or surface water quality (Section 7.15C above) show that the effect of the development or use of land will be to exceed whichever of these groundwater quality standards applies, that will be the basis for denial of the application.

## 7.16 ADDITIONAL REQUIREMENTS

- A. Street trees, esplanades, and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses.
- B. The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a planting screen easement at least 20 feet wide, except as may otherwise be required by the Zoning Ordinance, between abutting properties that are so endangered.

## SECTION 8 STREET DESIGN AND CONSTRUCTION STANDARDS

### 8.1 STREETS (GENERAL)

#### A. Classification

In accordance with the Comprehensive Plan of the Town of Chebeague Island and for the purposes of these standards, streets are classified according to the average daily traffic (ADT) they are intended to serve, as calculated by the number of Average Daily Trips; as follows:

1. Average Daily Trip - Average daily trip shall be defined as the anticipated number of daily vehicle trips generated by a use as established by the *Trip Generation Manual*, published by the Institute of Transportation Engineers, 1991. If the developer disagrees with the estimated number of trips per day generated by a particular use, as listed by the *Trip Generation Manual*, published by the Institute of Transportation Engineers, the developer may request a waiver of these standards if information is submitted demonstrating that the *Trip Generation Manual* estimate is inaccurate. Table 8-1 lists estimated number of average weekday trips for residential uses.

**Table 8-1**

**Housing Type**

**Average Weekday  
Trip Generation Rates**

Single-family detached	10 trips/dwelling unit
Duplex, multiplex, Mobile Home	8 trips/dwelling unit
Retirement Home	5.5 trips/dwelling unit
	3.5 trips/dwelling unit

1. Arterial Streets: Arterial streets and highways serve primarily as major traffic ways for travel between and through towns.
2. Residential Private Streets: Private streets serve as feeders to access, sub-collectors, and collector residential streets, and may be the principal entrance streets of a residential development. Private streets are permitted only when the average daily traffic is less than 50.
3. Residential Access Streets: Access streets serve primarily for access to abutting residential properties, and as feeders to other residential streets of equal or greater capacity. Access streets are intended to serve developments with average daily trips less than 200.
4. Residential Sub-collector Streets: Sub-collector streets serve as collectors from access or private streets and as feeders to collector streets; they are intended to serve developments with average daily trips of 200 - 500.
5. Residential Collector Street - Collector streets serve as collectors from Sub-collector streets and as feeders to arterial streets, they are intended to serve developments with average daily trips greater than 500.
6. Commercial Access Streets - Access streets shall be defined as streets servicing commercial and industrial developments with average daily trips less than 2000.
7. Commercial Collector Streets - Collector streets shall be defined as streets servicing commercial and industrial developments with average daily trips greater than 2000.
8. Classification of street types will be made by the Planning Board within the considerations outlined above.

#### B. Layout

1. Proposed streets shall conform, as far as practical, to such Comprehensive Plan or policy statement as may have been adopted, in whole or in part, prior to the submission of a Preliminary Plan.

2. All streets in the subdivision shall be so designed that, in the opinion of the Board, they will provide safe vehicular travel while discouraging movement of through traffic over local streets.
3. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Grades of streets shall conform as closely as possible to the original topography.
4. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a minimum thirty (30) foot wide utility easement and/or minimum twenty (20) foot wide right-of-way for pedestrian and/or bicycle traffic.

The Board may require that additional right-of-way widths be provided if it determines that future extension of the street may occur. Such additional widths shall be consistent with the right-of-way width of the dead-end street.

5. In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased by such amount on each side as may be deemed necessary by the Board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district. In no case shall the street have a right-of-way width and pavement width less than that specified in Table 8-3.
6. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the Plan, marked "Reserved for Road Realignment (or Widening) Purposes." It shall be mandatory to indicate such reservation on the Plan when a proposed widening or realignment is shown on the Official Map. Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.

7. The extension or continuation of an existing street, right-of-way less than that specified herein, may be permitted with the approval of the Planning Board.
8. If deemed necessary by the Planning Board, the subdivision may be required to provide at least two street connections with existing public streets or streets on an approved Subdivision Plan for which a bond has been filed.
9. Utility plans must be approved by the responsible utilities. Copies of written approval shall be submitted to the Board at the time of final review.
10. If the Planning Board determines that future development will occur on land adjacent to or near the proposed subdivision, whether it is owned by the applicant or not, then the Board shall retain the right to require the developer to meet the requirements for collector street design and construction as specified herein at no cost to the Town.

#### C. Street Signs, and Names

1. Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Board.
2. Street name signs shall be furnished and installed by the subdivider. The type, size and location shall be to the approval of the Board.

#### D. Traffic Control Devices

The Developer shall furnish and place all appropriate signing and pavement markings required for the proper control of pedestrian, bicycle and vehicular traffic within the subdivision. The types and locations of all such devices shall be determined by the Planning Board, and Town Engineer and shall be in conformance with the "Manual on Uniform Traffic Control Devices" as currently revised.

#### E. Street Lighting

The Developer shall coordinate with the appropriate servicing utility and the Road Commissioner for furnishing, locating and placing of any lighting. Light poles and luminaries shall be a type approved by the Planning Board and said utility.



F. Byways shall be provided along all roads within a proposed development.

G. Private Ways

A. Private ways built to the "private residential" standards of this section shall not be accepted as a public way; provided, however, that privately owned roads in mobile home parks are exempt from the requirements set forth in Section 8 but shall be considered as "streets" for building purposes. If at a future date users of the road upgrade the private way to the standards set forth in Section 8, the users may petition the Board of Selectmen for the acceptance of the road as a public way at the next Town Meeting. The plan shall contain a note which shall read, "The Town of Chebeague Island shall not be responsible for the maintenance, repair, plowing, or similar services for the private way shown on this plan."

## 8.2 DESIGN AND CONSTRUCTION STANDARDS

A. All streets in the subdivision shall be designed and constructed to meet the following standards for streets according to their classification, including whether Urban or Rural standards apply, as determined by the Planning Board:

1. Urban: Urban standards shall apply to all roads that are constructed using subsurface drainage and curbing. Urban standards may be applied to "Rural" roads at the Planning Board's discretion, if conditions so warrant such as topography, soil conditions and aesthetics. Urban design standards shall be defined as paved streets with such appurtenances as curbs, esplanades, byway, and an enclosed storm drainage system with catch basins, manholes, and associated piping. The Planning Board shall require the provision of a byway under the urban design standards, which for purposes of this subparagraph A.1. shall include only a sidewalk or freewalk; provided however, that under the waiver standard set forth in Section 15 of this ordinance, a freewalk may be substituted for a sidewalk if in the opinion of the Board such substitution will not significantly lessen drainage efficiency, or the requirement of a byway may be waived altogether.
2. Rural: Rural design standards as tabulated herein shall be used for all street designs in the Town of Chebeague Island, except as specified above. Rural design standards shall be defined as paved streets with gravel shoulder, side ditches for the transportation of storm water and a byway.

The Planning Board shall require the provision of a byway under the rural design standards, which for purposes of this subparagraph A.2. shall include only a freewalk or paved shoulder; provided however, that under the waiver standard set forth in Section 15 of this ordinance, a paved shoulder may be substituted for a freewalk, or the requirement of a byway may be waived altogether.

B. Dimensions of Street Construction

The dimensions for street construction shall conform with Table 8-2

- C. Minimum sight distance for all streets and roadways, except local and private streets, shall be calculated using the standard of 10 feet of sight distance per every 1 mile of posted speed limit. This standard may be reasonably reduced by the Planning Board for local and private streets, where appropriate. Sight distance requirements at intersections shall follow the guidelines specified in "A Policy on

Table 8-2: Geometric Design Standards

<i>Dimensional Description</i>	<b>Residential Private</b>	<b>Residential Access</b>	<b>Residential Sub-collector</b>	<b>Residential Collector</b>	<b>Commercial Access</b>	<b>Commercial Collector</b>
Average Daily Trips	< 50	0 - 200	200-500	> 500	< 2000	> 2000
Right of Way Width	50 feet	50 feet	60 feet	60 feet	60 feet	70 feet
Pavement Width						
- Rural	18 ft.	20 ft.	22 ft.	24 ft.	22 ft.	24 ft.
- Urban with paved shoulders	N/A	30 ft.	30 ft.	36 ft.	32 ft.	36 ft.
- Urban with curbing	24 ft.	28 ft.	30 ft.	30 ft.	32 ft.	32 ft.
Add for Shoulder Width (each side)						
- Rural without parking (gravel)	2 ft.	4 ft.	6 ft.	6 ft.	6 ft.	8 ft.
- Rural with parking (gravel)	N/A	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.
- Urban with parking (paved)	8 ft.	5 ft.	4 ft.	4 ft.	4 ft.	4 ft.
Sidewalk or Freewalk Width						
- Rural	PB Option	PB Option	5 ft.	5 ft.	PB Option	PB Option
- Urban	N/A	5 ft.	5 ft.	5 ft.	PB Option	PB Option
Minimum Grade (1.0% preferred)	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%
Maximum Grade	10%	10%	10%	8%	8%	8%
Minimum Centerline Radius	100 ft.	150 ft.	150 ft.	300 ft.	300 ft.	450 ft.
Minimum Tangent Between Curves of Reverse Alignment	50 ft.	150 ft.	200 ft.	300 ft.	300 ft.	300 ft.
Minimum Angle of Street Intersections	75 degrees	75 degrees	75 degrees	85 degrees	75 degrees	85 degrees
Minimum distance between Street Intersections on - same side	200 ft.	300 ft.	400 ft.	500 ft.	300 ft.	400 ft.
- opposite side	100 ft.	150 ft.	250 ft.	350 ft.	200 ft.	300 ft.
Minimum Pavement Radii at Intersections - Rural	20 ft.	30 ft.	45 ft.	50 ft.	50 ft.	50 ft.
- Urban	20 ft.	25 ft.	40 ft.	45 ft.	45 ft.	50 ft.
Minimum Pavement Crown	1/4" per foot	1/4" per foot	1/4" per foot	1/4" per foot	1/4" per foot	1/4" per foot
Min. slope of gravel shoulder	1/2" per foot	1/2" per foot	1/2" per foot	1/2" per foot	1/2" per foot	1/2" per foot
K factor, crest vertical curve	15	20	30	30	50	50
K factor, sag vertical curve	20	30	40	40	50	50
MPH Design Speed	25	25	30	30	35	35
Max. grade at intersection and within 75 feet of intersection	3%	3%	3%	3%	2%	2%
Min. property line radius at intersection	15 ft.	20 ft.	30 ft.	30 ft.	30 ft.	30 ft.

Geometric Design of Highways and Streets, 1984" as published by the American Association of State Highway and Transportation Officials.

D. Dead End Streets

1. Presentation of special design, discussion and written permission by the Planning Board shall be required for those conditions that may require dead end streets under the category of Residential Sub-Collector, Residential Collector, Commercial Access, or Commercial Collector.
2. The terminus of any dead end street must have a cul-de-sac, with standards as listed in Section 3 below. Other types of turn around may be approved by the Planning Board after receiving a recommendation by the Fire Chief and Public Works Director. Cul-de-sac island area shall be restricted to grass or where the radius is large enough the Planning Board may permit other cover types.
3. Standards as listed under Section B shall be applicable for dead-end streets. In addition, the following requirements shall be fulfilled:
  - a. Maximum length of dead-end streets shall be limited to 2,000 feet measured from the centerline of the feeder street to the center of the turnaround radius. However, the Planning Board may allow longer lengths because of property configuration and/or topographical constraints.
  - b. Radii at Cul-de-sac with Center Island:

Property line:	70 feet
Outer edge of pavement:	60 feet
Inner edge of pavement:	30 feet
  - c. Radii at Cul-de-sac without Center Island:

Property line:	60 feet
Over edge of pavement:	50 feet
4. At the end of temporary dead-end streets, a temporary turnaround with an outside roadway diameter of 90 feet or a backing space extending at least thirty (30) feet from the edge of the street, and thirty (30) feet beyond the edge of the backing space. Pavement widths for backing spaces shall be identical to the type of street involved.

E. Driveways

1. Driveways shall be designed and constructed in such a way so as to preclude the possibility of damage to the underside of vehicles due to excessive changes in grade. Dimensions and break-over angles of vehicles, such as those published by the Automobile Manufacturing Association, should be used as a guide in the design and construction of all driveways within the subdivision.
2. Where streets are built to urban standards, driveways shall enter a street at the level of the edge of the traveled way. They shall, in no way, impede the flow of storm water along the gutter line. Where a driveway crosses a sidewalk or a reservation for same, it shall do so with little or no change in the longitudinal grade at the back edge of the sidewalk. All driveways shall be paved to a point at least four feet beyond the right-of-way in order to prevent damage to sidewalk areas.
3. Where streets are built to rural standards, driveways shall enter a street at the level of the outer edge of the gravel shoulder. They shall be graded in such a manner so as to direct as much storm water as practical into roadside ditches. All driveways shall be paved to the street right-of-way. Such paving shall include the gravel shoulder of the roadway; and when completed, it shall be at the proposed grade of the gravel shoulder.
4. All driveways shall be constructed with adequate drainage systems to prevent water flow from entering garages or basements.
5. The portion of any driveway within the right-of-way shall be constructed to the same road construction materials standards as the adjoining road.

### **8.3 ROADWAY CONSTRUCTION MATERIALS**

#### **A. General**

1. Roadway construction materials as specified herein shall conform to the current specifications of the Maine Department of Transportation.
2. Standards and dimensions tabulated herein shall be considered as minimum. The subdivider shall be required to investigate and determine the types and classifications of the soils. Computations shall be made to determine pavement design standards for construction, which shall be submitted to the Town Engineer for review.

If the existing native soil through the sub-base course area can be defined as being equal in quality and thickness to the minimum requirements specified herein, the Planning Board may waive a portion

or all of the minimum requirements for sub-base courses. In any event, the ultimate density of any material left in place shall conform to the minimum requirements for compaction specified in Section 9.4(B) contained herein.

If, during construction, subsurface soils vary from the original classification, the pavement design shall be modified to reflect the new soil types. Revised pavement designs shall be submitted to the Town Engineer for approval.

#### B. Materials

1. The minimum thickness of the various materials courses shall be shown in Table 8-3.

2. Curbing Materials

Curbing materials shall be either granite stone curbing, Type 1; or Bituminous curbing, Type 3. Type 1 vertical circular curbing shall be used for radii at intersections.

3. Minimum paving requirements on island street shall consist of a penetration treated surface using asphalt. Bituminous surface treatment shall consist of a prime coat using a low viscosity liquid bituminous material to coat and bind mineral particles. A coat of cover material - sand - will be required. After a minimum five (5) day curing period or such other time as the Road Commissioner may require, a seal coat consisting of bituminous material and a sand cover shall be applied. Bituminous materials, their application rates and the cover material to be used, shall be approved by the Road Commissioner prior to paving.

Table 8-3: Street Material Thickness Standards

	Residential Private	Residential Access	Residential Sub-collector	Residential Collector	Commercial Access	Commercial Collector
<b>Road Construction Materials</b>						
Aggregate Sub-base Course - Sand (or use Geotextile Fabric); when required by Town Engineer	6"	6"	6"	6"	6"	6"
Aggregate Sub-base Course - Gravel (max. stone size no greater than 6")	12"	15"	15"	18"	18"	18"
Aggregate Base Course - Crushed	3"	3"	3"	3"	3"	3"
Hot Bituminous Pavement						
- Surface course (C-1 grade)	1"	1"	1"	1 1/2"	1"	1 1/2"
- Base Course (B grade)	2"	2"	2"	2 1/2"	2 1/2"	3 1/2"
<b>Sidewalk or Freewalk Materials</b>						
Aggregate Sub-base course (no vehicular traffic)	8"	8"	8"	8"	8"	8"
Hot bituminous pavement						
- Surface course (D grade)	1"	1"	1"	1"	1"	1"
- Base course (C grade)	1"	1"	1"	1"	1"	1"

## 8.4 CONSTRUCTION STANDARDS

All streets within the subdivision shall be constructed according to the specifications herein as overseen by the Road Commissioner and/or Town Engineer.

A. Grading: All streets shall be graded to their full width by the subdivider so that pavements and sidewalks can be constructed on parallel profiles. Due to special topographical conditions, deviation from the above will be allowed only with special approval of the Planning Board.

1. Preparation: Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush, and other objectionable material and all trees not intended for preservation.
2. Cuts: Tree stumps, roots, and other organic materials shall be removed to a depth of two (2) feet below the subgrade. Rock and boulders, when encountered, shall be removed to subgrade.
3. Fill: All materials used in the construction of embankments shall meet the standards for embankment construction, Section 203.09 through 203.16 of the Maine Department of Transportation Standard Specifications. Excess material including organic materials, etc., shall be removed from the street site. The fill shall be spread in layers not to exceed twelve (12) inches loose and compacted. The filling of utility trenches and other such areas shall be mechanically tamped.
4. All underground utilities and their services shall be installed within the street right-of-way prior to placement of the aggregate base course (crushed gravel).
5. Side Slopes: All side slopes shall be a maximum slope of three (3) horizontal to one (1) vertical. All slopes shall be graded, loamed (four inches compacted), fertilized, limed and seeded as required.

### B. Bases and Pavement

The appropriate sections of the Bases and Pavements Divisions of the Maine Department of Transportation Standard Specifications currently in effect at the date of submission of the preliminary plan shall be applicable.

Bases:

1. Aggregate Sub-base Course - Gravel (Type D).



Aggregate sub-base shall not contain particles of rock exceeding six (6) inches in any dimension.

Aggregate Base Course - Crushed (Type A).

Aggregate base shall not contain particles of rock that will not pass the 2 inch square mesh sieve.

2. Where pavement placed joins an existing pavement, the existing pavement shall be cut along a smooth line and to a neat, even, vertical, joint. Broken or raveled edges will not be permitted, nor deviation from grade.

Gradation of aggregates for Plant Mix Hot Bituminous Pavements shall be as specified in Division 700 of the Maine Department of Transportation Standard Specifications.

C. Curbing: Section 609 of the Maine Department of Transportation Standard Specifications shall be applicable to this section, except as follows:

1. Curbing shall be limited to Type 1 and Type 3.
2. Vertical or sloped curbing shall be used in accordance with the design standards set forth herein for the particular type of street. All curbs shall have a typical reveal of six (6) inches.
3. Type 1 curbing shall be used for radii at all intersections.

D. Byways:

1. Sidewalk: Sidewalk construction shall comply with Section 608 of the Maine Department of Transportation Standard Specifications. Sidewalks shall have typical cross slopes of 3/8"/foot.
2. Freewalk: A freewalk shall be 4 feet wide, shall consist of 2-inch thick asphalt with an 8-inch gravel subsurface and shall be separated from the paved portion of the road by a grassy esplanade with a minimum width of 4 feet.
3. Paved Shoulder: A paved shoulder shall be constructed to the same road construction materials standards as the adjoining road. The paved shoulder shall be contiguous with the roadbed and shall be separated from the roadway by a painted, solid white line.

## 8.6 MONUMENTS

- A. Granite or precast reinforced portland cement concrete monuments four (4) inches square, four (4) feet long with a flat top shall be set at the following locations:
  1. All street corners;
  2. All points where the street line intersects the exterior of the subdivision; and,
  3. All angle points or all points of horizontal curvature in each street.

The tops of monuments shall have an indented cross or drill hole to properly identify the location and shall be set flush with the finished grade.
- B. All other lot corners shall be marked with iron pipe not less than one (1) inch in diameter and forty-eight (48) inches long and driven so as to be flushed with the finished grade.

## **SECTION 9 STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS**

### **9.1 INTENT**

An adequate stormwater control and conveyance system shall be provided including appurtenances such as sediment and detention basins as needed, and catch basins, manholes, and piped or professionally designed ditch conveyance systems to assure that stormwater discharged from the site are in compliance with the guidelines contained herein and all other requirements of this Ordinance.

### **9.2 DEFINITIONS**

- A. Urban Systems: Storm drainage facilities located within areas defined by this ordinance as urban shall be an enclosed underground system capable of effectively removing stormwater from the street and adjacent areas. Discharge of stormwater shall be into natural drainage courses.

Storm drainage systems conforming to the standards specified herein may be constructed in rural areas at the option of the developer or if required by the Planning Board.

If conditions warrant, the Planning Board may allow a combination of rural and urban drainage standards or utilize rural standards entirely.

- B. Rural Systems: Storm drainage facilities located within areas defined by this ordinance as rural shall consist of a system of culverts and open drainage channels capable of effectively carrying stormwater into natural drainage courses.

### **9.3 STORM WATER MANAGEMENT PLAN REQUIRED**

All subdivision applications shall contain a surface drainage plan with profiles and cross sections designed by a State of Maine registered professional engineer. This plan shall show ditches, culverts, easements and other proposed improvements with the statement in writing attached to the drainage plan indicating that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in adjacent properties; and, file with the Planning Board properly executed easements as required by the Planning Board. The plan shall also contain a soil erosion and sediment control plan containing the endorsement of the Cumberland County Soil and Water Conservation District.

Applications submitted pursuant to this Ordinance for projects which will expose more than 60,000 square feet of soil at one time or which will produce more than 10,000 square feet of additional impervious surface must submit a stormwater management plan to the Planning Board for its review and approval.

### **9.4 PERFORMANCE STANDARDS**

Stormwater Management Plans shall show means whereby the peak discharge for the developed site shall not exceed the peak discharge for the undeveloped site for the 2 and 25 year storms. Emergency overflow facilities shall be provided for storms in excess of the 25 year storm. Sediments and other pollutants shall be limited through appropriate management practices to prevent adverse downstream water quality impacts. Regulations specifying hydraulic calculation techniques and design standards for facilities to achieve this performance standard shall be as approved by the Planning Board.

## 9.5 DESIGN STANDARDS

### A. General

1. All stormwater systems within the subdivision shall be designed to meet the criteria of the performance standards for a twenty-five storm based on rainfall data from the National Weather Service records in Portland. Flows shall be computed by appropriate professional methods with design computations being submitted for review.
2. Upstream drainage shall be accommodated by an adequately sized drainage system through the proposed subdivision for existing and future potential development in the upstream drainage area or areas tributary to the proposed subdivision as determined by the Planning Board.
3. Existing downstream drainage facilities shall be studied to determine the affect of the proposed subdivision's drainage. The developer shall demonstrate to the satisfaction of the Planning Board that the storm drainage from the proposed subdivision will not, in any way, overload or damage existing storm drainage systems downstream from the proposed subdivision.
4. Where open ditches (other than roadway ditches), channels, streams, or natural drainage courses are used to collect, discharge, and/or transmit water through the development, an adequately sized, perpetual drainage easement shall be provided. Said easement shall be centered as closely as possible to the middle of the watercourse and shall be no less than thirty (30) feet in width.
5. Where subsurface soils are poorly drained, an underdrain system may be required by the Planning Board. Underdrains shall be installed and discharged in a positive manner.

### B. Urban

1. Design standards for urban drainage systems shall be approved by the Planning Board.
2. Minimum pipe size for any storm drainage pipe shall be twelve (12) inches.
3. Design of storm drains shall be on a basis of flowing full at a minimum velocity of 2.5 feet per second.

4. Three hundred (300) feet shall be considered as a maximum length for carrying storm water in a street gutter prior to intake at a catch basin.
5. No water shall be permitted to drain across a street or an intersection.
6. Manholes shall be placed at all vertical or horizontal changes in the alignment of pipe. However, in no case shall manholes be spaced at intervals exceeding four hundred (400) feet, unless otherwise approved by the Planning Board.
7. Drains shall be designed such that a minimum of four (4) feet of cover over the pipe is provided in paved areas and/or three (3) feet of cover is provided in unpaved areas outside the street right-of-way.
8. The Planning Board may require that house foundation drains be connected to the storm drainage system. All connections shall be made with wyes, tees, or saddles which are compatible with the storm drain. All such work shall be done under the supervision of the Plumbing Inspector.

C. Rural

1. Design standards for rural drainage systems shall be approved by the Planning Board.
2. Roadside ditches and outlet channels shall be of a configuration and size to carry the contributory storm water and subsurface flows from the roadway structure and roadside embankments. In all instances the invert of the ditch shall be a minimum of six (6) inches below the subgrade of the roadway extended to the shoulder except as modified below:
  - a. In areas of well drained native soils; or
  - b. In areas where subsurface soils are of a nature requiring an under drain system, subgrades may be constructed to direct subsurface water to the underdrain pipes.
3. Ditch linings shall be provided to protect the side and slopes and bottom from erosion and scour. Minimum channel linings for corresponding longitudinal slopes shall conform to the following table:

0-3%	-	Loam and seed
3-6%	-	Loam and seed, protected by erosion control mesh
6-8%	-	Sod placed over loam

Over 8% - Stone, masonry, bituminous concrete or metal linings.

Ditches adjacent to roadways shall be of a configuration that does not create a hazard to vehicular traffic.

#### 4. Culverts

- a. Cross Culverts: Culverts crossing under roads or streets shall be sized to pass a twenty-five (25) year frequency storm from the contributing drainage area without hydrostatic head. Design shall be based on accepted hydrological methods and culvert capacity analysis. Minimum culvert diameter shall be fifteen (15) inches.
- b. Driveway Culverts: Culverts shall be installed under any proposed or existing driveway that interrupts natural or proposed longitudinal drainage along any street or road. Driveway culverts shall be of a size capable of passing the amount of storm water equal to the next upstream culvert within the same drainage course. Driveway culverts shall have a minimum diameter of twelve (12) inches. Final determination of culvert size shall be determined by the Road Commissioner.
- c. Minimum cover over culverts in roadway areas shall be twenty-four (24) inches. Minimum cover over driveway culverts shall be twelve (12) inches.

### 9.6 MATERIALS

A. The following material shall be utilized for storm drain construction:

1. Reinforced Concrete Pipe (Urban and Rural): Reinforced concrete pipe and fittings shall meet the requirement of ASTM Designation C-76. The classification of pipe shall be as required to meet soil and traffic loads with a factor of safety of 1.0 on the .01 inch crack strength with a class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C-443, or of an approved pre-formed plastic jointing material such as "Ramnek".
2. Polyvinyl Chloride (PVC) Pipe. PVC pipe and fittings shall conform to the requirements of AASHTO M278. All pipe shall be supplied with gasket type joints meeting the requirements of ASTM D3212. Pipe shall be designed to withstand soil and traffic loads with a maximum deflection of 5% in diameter.

3. Corrugated Metal Pipe (Rural): Corrugated metal pipe and fittings shall be plain galvanized, aluminum or bituminous coated conforming to the requirements of Section 707 - Metallic Pipe, of the State of Maine Department of Transportation Standard Specifications. All pipe shall be of sufficient gauge to withstand soil and traffic loads with a maximum deflection of 5%.
4. Underdrain Pipe (Urban and Rural): Underdrain pipe may be of polyvinyl chloride (PVC) perforated pipe meeting the requirements of AASHTO M278 or perforated bituminous coated corrugated metal pipe meeting the requirements of AASHTO M136 and shall be coated with bituminous material to meet the requirements of AASHTO M190, Type A coating. Coupling bands shall be fully coated.
5. Manholes: Manholes shall be of precast concrete sections construction or of precast concrete block construction. Precast units shall conform to the requirements of ASTM Designation C-478. Precast concrete manhole blocks shall be of load-bearing masonry units meeting the requirements of ASTM Designation C-139, radial type. Manhole cones shall be truncated. Manhole bases may be cast-in place concrete with a 28 day strength of 3000 psi, or may be of precast concrete.

Concrete block manholes shall be treated with two coats of asphalt waterproofing material conforming to ASTM Designation D-41 or a cement base coating suitable for brush coat application.

Manhole steps shall be dropfront type of cast aluminum conforming to Federal Specification QQ-A-200/8 aluminum magnesium silicide type alloy. All steps shall be cast into the walls of the manholes so as to form a continuous ladder with a distance of twelve (12) inches between steps.

Manhole frames and covers shall be either a "M24 x 8 manhole" or "E24 x 5 manhole" as manufactured by Etheridge Foundry of Portland, Maine, or an approved equal. Covers shall be solid diamond and marked "storm".

Manhole inverts shall be constructed of brick and shall be shaped to the crown of the pipe for sizes up to eighteen (18) inches and to the spring line for larger pipes.

6. Catch Basins: Catch basins shall be of precast concrete construction or of precast concrete block construction conforming to the appropriate ASTM Designations specified in subsection 5 (Manholes) above.

Castings shall be twenty-four (24) inch square grating Type M as manufactured by Etheridge Foundry, Portland, Maine, or an approved

equal. All catch basins shall be provided with a curb face inlet unless otherwise approved by the Road Commissioner.

Catch basins shall have a minimum two (2) foot sump for retention of water borne solids.

7. Catch Basin Drain Pipe: Catch basin drain pipe shall be of the same material as the main storm drain and shall meet the design requirements as specified in "1" above for the material being used. Catch basin leads shall enter the drain at manholes or at tee or wye fittings. When entering at manholes, the invert elevations of the lead and the main drain shall not be greater than twelve (12) inches. Where the difference in invert elevations differ by more than twelve (12) inches, drop connections will be provided.

## 9.7 GENERAL CONSTRUCTION REQUIREMENTS

- A. All trenching shall be accomplished in accordance with all appropriate state and federal safety requirements.
- B. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet.
- C. Pipe shall be bedded in crushed or screened stone with a minimum depth of six (6) inches to provide a Class B bedding. The stone will be deposited in the trench and brought to proper invert grade. The maximum size of stone aggregate will be three-fourths (3/4) inch. When the trench bottom has been excavated, it shall be filled and thoroughly compacted to grade before the utility pipe is placed. When the excavated trench bottom is not sufficiently firm to properly support the utility pipe, the Town Engineer may direct the subdivider to excavate below grade and bed the trench bottom with a specified depth of select material. Unless otherwise shown on the final plan, the stone shall be brought to the spring line of the pipe. Bedding materials other than those stated above may be used but only by a written statement from the Town Engineer. The statement will include a description of materials that will be substituted.
- D. Pipe alignment shall be straight in both the horizontal and vertical unless specific approval of a curvilinear drain is obtained in writing from the Planning Board.
- E. Manholes shall be provided at all changes in vertical or horizontal alignment, and at all junctions. On straight runs, manholes shall be placed at a maximum of four hundred (400) foot intervals.



- F. Manholes and catch basins shall be founded below the frost line on a minimum depth of six (6) inches of crushed or screened gravel compacted to a uniform density.
- G. All drain outlets shall be terminated in a concrete end wall or shall be riprapped to prevent erosion. Facilities for energy dissipation shall be provided. Culvert pipe inlets shall be constructed so as to prevent or decrease damage to embankment and/or to improve efficiency of the culvert. Inlet control devices shall be as approved by the Town Engineer.
- H. Underdrains shall be laid with perforations down on a minimum six (6) inch bed of granular material used for the bed. Granular material for bedding and backfill shall be as specified for Type "B" underdrain in Section 703.22, Underdrain Backfill Materials, of the "State of Maine, Department of Transportation Standard Specifications."

## **9.8 EASEMENTS FOR NATURAL DRAINAGE WAYS**

- A. Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or both, as will assure that no flooding occurs and all storm water can be disposed of properly. Such easement or right-of-way shall be not less than 30 feet in width.

## **SECTION 10 - FIRE PROTECTION**

The subdivision design must comply with the Town of Chebeague Island Fire Protection Ordinance. The Fire Chief shall issue the applicant a "Certificate of Compliance" once the applicant has met the design requirements of the Town's Fire Protection Ordinance.

## **SECTION 11 SOIL EROSION**

### **11.1 Design and Construction Standards**

- A. The proposed subdivision shall prevent eroded soil from entering water bodies, freshwater wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

## **SECTION 12 IDENTIFICATION OF FRESHWATER WETLANDS**

12.1 Freshwater wetlands shall be identified in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, published by the Federal Interagency Committee for Wetland Delineation, January, 1987, or as amended.

## **SECTION 13 TRAFFIC CONDITIONS**

### **13.1 Intent**

Provisions shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to; safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision, avoid traffic congestion on any street, and provide safe and convenient circulation on public streets and within the subdivision.

### **13.2 Design Standards**

- A. No subdivision shall reduce a street giving access to the subdivision and neighboring streets and intersections to a Level of Service to "E" or below.
- B. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, byways, and traffic controls within public streets.
- C. Access ways to non-residential subdivisions or to multi-family developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A warrant analysis to determine the need for a left-turn storage lane shall be done.
- D. Where topographic and other site conditions allow, provisions shall be made for street connections to adjoining lots of similar existing or potential use, for the purposes of facilitating public safety services, and/or to enable the public to travel between the two developments without the need to travel on a collector street.

## **SECTION 14 FINANCIAL AND TECHNICAL CAPACITY**

### **14.1 Financial Capacity**

The applicant shall have adequate financial resources to construct the required improvements and meet the criteria of the statute and the standards of these

regulations. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

#### **14.2 Technical Capacity**

The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted by the applicant.

## **SECTION 15 WAIVER AND MODIFICATION OF THESE REGULATIONS**

### **15.1 Hardships**

Where the Planning Board finds that an unnecessary hardship may result from strict compliance with these standards, or where there are special circumstances of a particular plan which the Board finds make a particular standard inapplicable, it may waive these standards; provided that such waiver will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, Subdivision Ordinance or the Zoning Ordinance and that such waiver will not endanger public safety. An unnecessary hardship shall be defined as a substantial burden on the subdivider which affects his ability to achieve a reasonable economic return on said project. Special circumstances shall relate to the unique circumstances of the property, such as its proximity to similar public improvements or the adequacy of connecting facilities.

### **15.2 Conditions**

In granting waivers and modifications, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards so waived or modified.

### **15.3 Appeals**

Appeals from the decisions of the Planning Board shall be to the Superior Court.

## **SECTION 16 CONFLICT WITH OTHER ORDINANCES OR REGULATIONS**

Where a provision of this ordinance appears to be in conflict with any provision of any other ordinance, rule, regulation, restriction, or statute, that provision which imposes the greater restriction and/or provides for the lesser density of land use shall have precedence.

## **SECTION 17 SEVERABILITY AND EFFECTIVE DATE**

**17.1** The invalidity of any provision of these standards shall not invalidate any other part.

**17.2** The effective date of these regulations is July 1, 2007.

APPENDIX 'A'

Town of Chebeague Island  
Planning Board Application

Map: \_\_\_\_\_  
Lot: \_\_\_\_\_

1. APPLICANT:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Address: \_\_\_\_\_ Cell: \_\_\_\_\_  
\_\_\_\_\_ Fax: \_\_\_\_\_  
\_\_\_\_\_ E-mail: \_\_\_\_\_  
Interest in Property: \_\_\_\_\_  
Interest in Abutting Properties, if any: \_\_\_\_\_

2. OWNER:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Address: \_\_\_\_\_ Cell: \_\_\_\_\_  
\_\_\_\_\_ Fax: \_\_\_\_\_  
\_\_\_\_\_ E-mail: \_\_\_\_\_

3. APPLICANT'S ARCHITECT, LANDSCAPE ARCHITECT, ENGINEER, PLANNER OR SURVEYOR:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Address: \_\_\_\_\_ Cell: \_\_\_\_\_  
(If more than one, please attach name and contact information for each.) Fax: \_\_\_\_\_  
\_\_\_\_\_ E-mail: \_\_\_\_\_

4. PROJECT:

Name of Project: \_\_\_\_\_  
Address of Site: \_\_\_\_\_

Project Data: Book: \_\_\_\_\_ Map: \_\_\_\_\_  
Page: \_\_\_\_\_ Lot: \_\_\_\_\_  
Zoning District: \_\_\_\_\_ No. of Dwellings: \_\_\_\_\_  
Overlay District: \_\_\_\_\_ No. of Buildings: \_\_\_\_\_  
Size of Site: \_\_\_\_\_ No. of Lots: \_\_\_\_\_  
Minor Subdivision \_\_\_\_\_ Minor Site Plan \_\_\_\_\_  
Major Subdivision \_\_\_\_\_ Major Site Plan \_\_\_\_\_  
Other: \_\_\_\_\_

5. OTHER INFORMATION:

a) Is Board of Appeals Approval Required? \_\_\_\_\_  
b) Are Any Ordinance Waivers Requested? \_\_\_\_\_ Yes \_\_\_\_\_ No  
(If 'Yes' attach a list of waivers and reasons for their request.)  
c) Application Fee per Town Ordinance: \_\_\_\_\_  
d) This application form and all accompanying materials must be submitted to the Town Planner *at least 21 days prior* to the meeting at which it is to be considered by the Planning Board.

The undersigned, being the applicant, owner or legally authorized representatives, states that all information contained in this application is true and correct to the best of his/her knowledge and hereby does submit the information for review by the Town and in accordance with applicable ordinances, statutes and regulations of the Town, State and Federal governments.

\_\_\_\_\_  
Signature of Applicant/Owner/Representative Date

**APPENDIX B**

**Subdivision Review Fee Schedule**

**APPENDIX C**  
**MINOR SUBDIVISION SUBMISSION REQUIREMENTS**

- A. The subdivision plan for a Minor Subdivision shall consist of <sup>Eleven</sup> ~~ten~~ (11) copies of one or more maps or drawings drawn to a scale of not more than forty (40) feet to the inch, which shall be legibly reproduced on a durable material or clearly drawn in ink on mylar and the size of the sheets shall be 8 1/2 X11 inches or a multiple thereof, but in no case larger than 24 X 36 inches. Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a Minor Subdivision shall include all the following information.
1. Proposed name of the subdivision or identifying title, and the name of the municipality in which it is located.
  2. The date of submission, north point, graphic map scale, name and address of record owner and subdivider, and names of adjoining property owners.
  3. Locations, widths and names of existing, filed or proposed streets, easements, and building lines pertaining to the proposed subdivision and to the adjacent properties.
  4. The boundaries and designations of zoning districts, parks and other public spaces.
  5. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the Plan. The survey plan shall show dimensions and areas of each proposed lot.
  6. Sufficient data to readily determine location, bearing and length of every lot line, and boundary line and to reproduce such lines upon the ground. Where practical these should be tied to reference points previously established.
  7. The survey of the outside boundaries of the tract and the computation of the lot lines shall be performed to an accuracy of one foot in 5,000 feet. If requested by Planning Board, the surveyor shall furnish copies of computation sheets for outside boundaries showing.
    - a. Sketch of traverse lines;
    - b. Closures;
    - c. Adjustments;
    - d. Coordinates; and
    - e. Computation of outside boundaries
  8. Contour lines at intervals of two (2) feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum, referenced to mean sea level. Surface drainage patterns including drainage channels and watershed areas shall be shown.
  9. A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. The Planning Board may request that the applicant submit the soils report to the Cumberland County Soil

and Water Conservation District for a written review.

10. All on-site public or communal sewerage and water supply facilities shall be shown, both horizontally and vertically, and designed to meet the minimum specifications of these standards and all pertinent state and local ordinances. Compliance shall be stated on the Plan and signed by a licensed site evaluator. If on-site groundwater wells are proposed, the effect of withdrawal of groundwater may be required by the Board as set forth in this Ordinance. If a cluster system or collective private sewage disposal system(s) is (are) proposed, a hydrogeologic investigation shall be submitted meeting the sewage disposal standards as set forth in this Ordinance. A hydrogeologic investigation may be required by the Board for individual sewage disposal systems as set forth in this Ordinance.
11. A surface drainage plan or stormwater management plan, with profiles and cross sections drawn by a professional engineer, registered in the State of Maine, showing preliminary design of all facilities and conveyances necessary to meet the stormwater management standards as set forth in this ordinance. The Planning Board may request that the applicant obtain the endorsement in writing of the stormwater management plan by the Cumberland County Soil and Water Conservation District.
12. Electrical facilities.
13. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
14. Any other data as determined by the Planning Board to ascertain compliance with this ordinance.
15. There shall be submitted to the Board with Final Plan:
  - a. Written offers of cession to the Town of all easements and public open space shown on the Plan, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the subdivider, are to be maintained.
  - b. Written evidence that the Municipal Officers or their appointed agent are satisfied with the legal sufficiency of the documents referred to in Paragraph (a), above. Such written evidence shall not constitute an acceptance by the municipality of any public open space referred to in this Appendix.



**APPENDIX D**  
**MAJOR SUBDIVISION SUBMISSION REQUIREMENTS**

A. Preliminary Plan Location Map

The Preliminary Plan shall be accompanied by a Location Map drawn at a scale of not over one thousand (1000) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The Preliminary Plan shall show all the area within one thousand (1000) feet of any property line of the proposed subdivision. Within such area the Location Map shall show:

1. All existing subdivisions and approximate tract lines of adjacent parcels together with the names of the record owners of all adjacent parcels of land, those directly abutting or directly across any street adjoining the proposed subdivision.
2. Locations, widths and names of existing, filed or proposed streets, easements, and building lines pertaining to the proposed subdivision and to the adjacent properties.
3. The boundaries and designations of zoning districts, parks and other public spaces.
4. An outline of the proposed subdivision together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdivider's entire holding.

B. Preliminary Plan Maps and Information

The Preliminary Plan shall be submitted in eleven (11) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of 1 inch equals not more than one hundred (100) feet or for plans describing construction of required improvements, a scale of one inch equals forty (40) feet; drawings not to exceed 24" x 36". All plans shall be accompanied by the following information:

1. Proposed subdivision name or identifying title and the name of the municipality.
2. Name and address of record owner, subdivider and designer of Preliminary Plan.
3. Date of plan submission, true north point and graphic scale.
4. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, watercourses and other essential existing physical features.
5. The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
6. The space standard and setback provisions of the Zoning Ordinance applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision.
7. The location and size of any existing or proposed sewers and water mains, culverts, hydrants, and drains on the property to be subdivided. This shall show the connections with existing sewer or water systems. Where public water and/or sewerage is not to be provided, alternative means of water supply and sewage treatment and disposal shall be shown, both horizontally and vertically. If on-site groundwater wells are proposed, the effect of withdrawal of groundwater may be required by the Board as set forth in

this ordinance.

8. If individual or collective private sewage disposal system(s) is (are) proposed, the location and results of tests to ascertain subsurface soils and groundwater conditions shall be signed and numbered by a licensed site evaluator. If a cluster system or collective private sewage disposal system(s) is (are) proposed, a hydrogeologic investigation shall be submitted meeting the sewage disposal standards as set forth in this ordinance. A hydrogeologic investigation may be required by the Board for individual systems as set forth in this ordinance.
9. Location, names and present and proposed widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public open spaces both within and abutting the subdivision. Grades and street profiles of all streets, sidewalks or other public ways proposed by the subdivider shall be shown.
10. Contour lines at intervals of two (2) feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum and referred to mean sea level.
11. A high intensity soil survey shall be conducted by a certified soil scientist to identify soils within the proposed development in accordance with USDA Soil Conservation Services National Cooperative Soil Classification. The soil boundaries and names shall be superimposed on a plot plan of the proposed development.
12. Deed reference and map of survey of tract boundary made and certified by a registered land surveyor, tied into established reference points. Deed restrictions, if any, shall be described.
13. A surface drainage plan or stormwater management plan, with profiles and cross sections drawn by a professional engineer, registered in the State of Maine, showing preliminary design of all facilities and conveyances necessary to meet the stormwater management standards as set forth in this ordinance.
14. The proposed lot lines with dimensions and suggested locations of buildings.
15. The location of temporary markers adequate to enable the Board to locate readily and appraise the basic layout in the field.
16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
17. The location of all natural features or site elements to be preserved.
18. A grading and landscaping plan including natural features to be preserved.
19. Plans shall bear the seals or numbers of the registered professionals responsible for preparing appropriate sections of the plan. Surveys shall be stamped by registered professional engineers, soil surveys shall bear the numbers of a soil scientist, subsurface sewage disposal plans shall bear the number of the professional site evaluator responsible for those evaluations, geological evaluations shall bear a registered geologists number and architectural work shall bear the architect's seal.

C. Final Plan Submissions

1. The Final Plan shall consist of eleven (11) copies of one or more maps or drawings which shall be printed or reproduced in the same manner as the Preliminary Plan.

Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:

- a. All of the information presented on the Preliminary Plan and Location Map and any amendments thereto required by the Board or otherwise added to the plan. Engineering plans submitted shall be final plans on which construction may be based.
  - b. The name, registration number and seal of the engineer, land surveyor, geologist, soil scientist, architect or planning consultant who prepared the plan.
  - c. Street names and lines, pedestrian ways, lanes, easements, rights-of-ways and areas to be reserved for or dedicated to public use.
  - d. The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distance and tangent bearings for each street.
  - e. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the Plan.
  - f. Sufficient data acceptable to the municipal officials to determine readily the location, bearing and length of every lot line, and boundary line and to reproduce such lines upon the ground. Where practical these should be tied to reference points previously established.
  - g. The survey of the outside boundaries of the tract and the computation of the lot lines shall be performed to an accuracy of one foot in 5,000 feet. If requested by the Planning Board, the surveyor shall furnish copies of computation sheets for outside boundaries showing:
    - i. Sketch of traverse lines;
    - ii. Closures;
    - iii. Adjustments;
    - iv. Coordinates; and
    - v. Computation of outside boundaries.
  - h. By proper designation, all public open space for which offers of cession are made by the subdivider and those spaces to which the title is reserved by him.
  - i. Lots and blocks within the subdivision numbered in accordance with local practice.
2. There shall be submitted to the Board with Final Plan:
- a. Copies of declarations, agreements or other documents showing the manner in which open space or easements are to be held and maintained.
  - b. Where conveyance of public open space or easements to the Town is contemplated, a written offer to make such conveyance to the town, and written evidence that the Municipal Officers are willing to accept such conveyances and are satisfied with the terms and conditions of the proposed

conveyance and with the legal sufficiency of the proposed transfer documents. Such written evidence shall not constitute an acceptance by the municipality of any such public open space.

**APPENDIX E**  
**SUBDIVISION REVIEW SHEET**  
**Minor Subdivision**

Proposed Subdivision Name \_\_\_\_\_

Name of Applicant \_\_\_\_\_

Number of Lots or Units \_\_\_\_\_ Zoning District \_\_\_\_\_

	<u>FINAL PLAN REVIEW</u>	<u>Dates</u>	
		C.E.O.	Planning Board
1.	10 copies of Application and Accompanying Material	_____	_____
2.	Fee Paid (Amount \$ _____)	_____	_____
3.	Advisory Determination of Application Completeness	_____	_____
4.	a. Initial Presentation by applicant	_____	_____
	b. Receipt Issued	_____	_____
5.	Application Complete	_____	_____
6.	a. Application Incomplete	_____	_____
	b. Written List of Missing Items	_____	_____
	c. List Sent to Applicant	_____	_____
7.	a. Public Hearing Held (optional)	_____	_____
	b. Notice Provided	_____	_____
8.	Technical Review Completed	_____	_____
9.	a. Decision Made	_____	_____
	b. Written Findings of Fact	_____	_____
	c. Written Decision	_____	_____
	d. Final Plan Signed	_____	_____
10.	a. Final Plan Filed with Registry of Deeds within 90 days of Approval	_____	_____
	b. Plat Book No. _____ Page No. _____	_____	_____

**APPENDIX F**  
**SUBDIVISION REVIEW SHEET**  
Major Subdivision

Proposed Subdivision Name \_\_\_\_\_

Name of Applicant \_\_\_\_\_

Number of Lots or Units \_\_\_\_\_ Zoning District \_\_\_\_\_

	<u>Dates</u>	
<u>PRELIMINARY PLAN REVIEW</u>	<u>C.E.O.</u>	<u>Planning Bd.</u>
1. 10 copies of Application and Accompanying Materials Received	_____	_____
2. Fee Paid (Amount \$_____)	_____	_____
3. Advisory Determination of Application Completeness	_____	_____
4. a. Initial Presentation by Applicant	_____	_____
b. Receipt Issued	_____	_____
5. Application Complete	_____	_____
6. a. Application Incomplete	_____	_____
b. Written List of Missing Items	_____	_____
c. List Sent to Applicant	_____	_____
7. Public Hearing Notice Provided	_____	_____
8. a. Public Hearing Held	_____	_____
b. Additional Hearings, if any	_____	_____
9. Technical Review Completed	_____	_____
10. a. Decision Made	_____	_____
b. Written Findings of Fact	_____	_____
c. Written Decision	_____	_____

FINAL PLAN APPROVAL

11. 10 Copies of Application and Accompanying Materials Received	_____	_____
12. Application Received Within 180 days of Preliminary Plan Approval	_____	_____

- 13. Fee Paid, if any (Amount \$\_\_\_\_\_) \_\_\_\_\_
- 14. Agency Approvals Obtained, if so required \_\_\_\_\_
- 15. Sewer User Units Allocated, if so required \_\_\_\_\_
- 16. Solid Waste Disposal Plan, if so required \_\_\_\_\_
- 17. a. Initial Presentation by Developer \_\_\_\_\_  
b. Receipt Issued \_\_\_\_\_
- 18. Application Complete \_\_\_\_\_
- 19. a. Application Incomplete \_\_\_\_\_  
b. Written List of Missing Items \_\_\_\_\_
- 20. Public Hearing Held (if any) \_\_\_\_\_
- 21. Performance Guarantee Terms and Conditions Approved by Planning Board (Amount Set \$\_\_\_\_\_)
- 22. Technical Review Completed \_\_\_\_\_
- 23. a. Decision Made \_\_\_\_\_  
b. Written Findings of Fact \_\_\_\_\_  
c. Written Decision \_\_\_\_\_  
d. Final Plan Signed \_\_\_\_\_
- 24. Performance Guarantee Filed with Town Manager \_\_\_\_\_
- 25. Final Plan Released to Developer \_\_\_\_\_
- 26. a. Final Plan Filed with Registry of Deeds within 90 Days of Approval \_\_\_\_\_  
b. Plat Book No. \_\_\_\_ Page No. \_\_\_\_ \_\_\_\_\_
- 27. Required Improvements Completed per Terms and Conditions of Performance Guarantee \_\_\_\_\_
- 28. Performance Guarantee Released by Town Manager \_\_\_\_\_

**APPENDIX G**  
**APPLICATION CHECKLIST**  
**MINOR SUBDIVISION - FINAL PLAN REVIEW**

Subdivision Name \_\_\_\_\_

Applicant Name \_\_\_\_\_

Owner Name \_\_\_\_\_

	Check When Satisfactory			Indicate Date When Satisfactory
	<u>Applicant</u>	<u>C.E.O.</u>	<u>Planning Bd.</u>	
1. 10 Copies of Final Plan and Accompanying Materials	_____	_____	_____	
2. Location Map	_____	_____	_____	
3. Name of Subdivision	_____	_____	_____	
4. Date	_____	_____	_____	
5. Scale	_____	_____	_____	
6. North Arrow	_____	_____	_____	
7. Topography (contour intervals)	_____	_____	_____	
8. Name of Owner	_____	_____	_____	
9. Name of Engineer, Land Surveyor, Architect or Planner	_____	_____	_____	
10. Name of Adjoining Property Owners or Subdivision	_____	_____	_____	
11. Dimensions and Bearings or Angles of All Property Boundary Lines	_____	_____	_____	
12. Name, Location and Width of Adjacent Streets	_____	_____	_____	
13. Location and Sizes of Existing Utilities and Width of Easements	_____	_____	_____	



- |   |       |       |       |
|---|-------|-------|-------|
| 14. Location and Size of Rock Outcrops, Streams, Swamps, Other Pertinent Features, Buildings, Trees, etc. | _____ | _____ | _____ |
| 15. Existing Deed Restrictions  | _____ | _____ | _____ |
| 16. Zoning District   | _____ | _____ | _____ |
| 17. Landscaping   | _____ | _____ | _____ |
| 18. Erosion Control   | _____ | _____ | _____ |
| 19. Street Lighting Standards   | _____ | _____ | _____ |
| 20. Street Signs  | _____ | _____ | _____ |
| 21. Water Supply System   | _____ | _____ | _____ |
| 22. Fire Hydrants   | _____ | _____ | _____ |
| 23. Sanitary Sewage System  | _____ | _____ | _____ |
| 24. Dimensions and Area of Lots   | _____ | _____ | _____ |
| 25. Soil Characteristics  | _____ | _____ | _____ |
| 26. Location of Temporary Monuments   | _____ | _____ | _____ |
| 27. Location of Permanent Monuments   | _____ | _____ | _____ |
| 28. Location and Sizes of Proposed Utilities and Easements  | _____ | _____ | _____ |
| 29. Location of Non-Utility Easements   | _____ | _____ | _____ |
| 30. Proposed Restrictive Covenants  | _____ | _____ | _____ |
| 31. Proposed Parks, Playgrounds and Other Public Areas  | _____ | _____ | _____ |

TO THE APPLICANT:

If you are requesting a waiver from a particular requirement or your don't feel that the requirement is applicable to your proposed project, place an asterisk (\*) in the space and explain your reasons in the space below or on attached sheets.

**APPENDIX H**  
**APPLICATION CHECKLIST**  
**MAJOR SUBDIVISION - PRELIMINARY PLAN REVIEW**

Subdivision Name \_\_\_\_\_

Applicant Name \_\_\_\_\_

Owner Name \_\_\_\_\_

	Check When Satisfactory		Indicate
	<u>Applicant</u>	<u>C.E.O.</u>	Date When Satisfactory
1. 10 Copies of Final Plan and Accompanying Materials	_____	_____	_____
2. Location Map	_____	_____	_____
3. Name of Subdivision	_____	_____	_____
4. Date	_____	_____	_____
5. Scale	_____	_____	_____
6. North Arrow	_____	_____	_____
7. Topography (contour intervals)	_____	_____	_____
8. Name of Owner	_____	_____	_____
9. Name of Engineer, Land Surveyor, Architect or Planner	_____	_____	_____
10. Name of Adjoining Property Owners or Subdivision	_____	_____	_____
11. Dimensions and Bearings or Angles of All Property Boundary Lines	_____	_____	_____
12. Name, Location and Width of Adjacent Streets	_____	_____	_____
13. Location and Sizes of Existing Utilities and Width of Easements	_____	_____	_____
14. Location and Size of Rock Outcrops, Streams, Swamps, Other Pertinent Features, Buildings, Trees, etc.	_____	_____	_____
15. Existing Deed Restrictions	_____	_____	_____
16. Zoning District	_____	_____	_____

- 17. Proposed Street Layout(Conformity with Official Map and Comprehensive Plan) \_\_\_\_\_
- 18. Right-of-Way Location Width \_\_\_\_\_
- 19. Pavement Width \_\_\_\_\_
- 20. Street Names \_\_\_\_\_
- 21. Street Elevations \_\_\_\_\_
- 22. Street Grades \_\_\_\_\_
- 23. Sidewalks \_\_\_\_\_
- 24. Off-Street Parking (if applicable) \_\_\_\_\_
- 25. Storm Sewers, Catch Basins and Culverts \_\_\_\_\_
- 26. Landscaping \_\_\_\_\_
- 27. Erosion Control \_\_\_\_\_
- 28. Street Lighting Standards \_\_\_\_\_
- 29. Street Signs \_\_\_\_\_
- 30. Water Supply System \_\_\_\_\_
- 31. Fire Hydrants \_\_\_\_\_
- 32. Sanitary Sewage System \_\_\_\_\_
- 33. Dimensions and Area of Lots \_\_\_\_\_
- 34. Soil Characteristics \_\_\_\_\_
- 35. Location of Temporary Monuments \_\_\_\_\_
- 36. Location of Permanent Monuments \_\_\_\_\_
- 37. Location and Size of Proposed Utilities and Easements \_\_\_\_\_
- 38. Location of Non-Utility Easements \_\_\_\_\_
- 39. Proposed Restrictive Covenants \_\_\_\_\_
- 40. Proposed Parks, Playgrounds and Other Public Areas \_\_\_\_\_

**TO THE APPLICANT:** If you are requesting a waiver from a particular requirement or you don't feel that the requirement is applicable to your proposed project, place an asterisk (\*) in the space and explain your reasons in the space below or on attached sheets.

**APPENDIX I**  
**APPLICATION CHECKLIST**  
**MAJOR SUBDIVISION - FINAL PLAN REVIEW**

Proposed Subdivision Name \_\_\_\_\_

Applicant Name \_\_\_\_\_

Owner Name \_\_\_\_\_

	Check When Satisfactory			Indicate Date When Satisfactory
	<u>Applicant</u>	<u>C.E.O.</u>	<u>Planning Bd.</u>	
1. 10 Copies of Final Plan and Accompanying Materials	_____	_____	_____	
2. Title	_____	_____	_____	
3. Scale	_____	_____	_____	
4. North Arrow	_____	_____	_____	
5. Date of Plan	_____	_____	_____	
6. Name, Address, and Signature of Owner	_____	_____	_____	
7. Name, Address, and Signature of Subdivider	_____	_____	_____	
8. Name, Address and Signature of Licensed Engineer, Land Surveyor, Architect or Planner	_____	_____	_____	
9. Names, of Adjoining Property Owners or Subdivisions	_____	_____	_____	
10. Check for Conformity with Preliminary Plan	_____	_____	_____	
11. Dimensions and Bearings of Property Being Subdivided	_____	_____	_____	
12. Location, Names and Widths of Existing and Proposed Streets	_____	_____	_____	

- 13. Location and Names of Existing and Proposed Parks, Playgrounds and Other Public Areas \_\_\_\_\_
- 14. Lot Lines and Accurate Dimensions and Bearings or Angles \_\_\_\_\_
- 15. Lot Areas \_\_\_\_\_
- 16. Building Setback Lines \_\_\_\_\_
- 17. Curve Data \_\_\_\_\_
- 18. Location, Description and Size of All Monuments \_\_\_\_\_
- 19. Certification by Agencies as Required \_\_\_\_\_
- 20. Restrictive Covenants \_\_\_\_\_
- 21. Street Plans and Profiles \_\_\_\_\_
- 22. Typical Cross-Sections of Street Pavements Including Curbs and Gutters, Sidewalks, Manholes and Catch Basins \_\_\_\_\_
- 23. Landscaping \_\_\_\_\_
- 24. Plan and Profiles Showing Location, Size and Invert Elevations of Existing and Proposed Sanitary Sewers and Storm Sewers \_\_\_\_\_
- 25. Plan and Profiles Showing Location and Size of All Water Lines, Gas Lines, and Other Underground Utilities and Structures \_\_\_\_\_

TO THE APPLICANT:

If you are requesting a waiver from a particular requirement or you don't feel that the requirement is applicable to your proposed project, please place an asterisk (\*) in the space and explain your reasons in the space below or on attached sheets.

**APPENDIX J**  
**APPLICATION COMPLETENESS FORM**

Name of Proposed Subdivision/Project \_\_\_\_\_

Name of Applicant \_\_\_\_\_

Address of Applicant \_\_\_\_\_

Location of Property \_\_\_\_\_

No. of Proposed Lots or Units \_\_\_\_\_, Zoning District \_\_\_\_\_

**RECEIVED MATERIALS:**

\_\_\_\_\_ Application

\_\_\_\_\_ 10 Copies of plans and materials

\_\_\_\_\_ Copy of Application Checklist (completed by the applicant)

Have all application submission requirements been met? \_\_\_ Yes \_\_\_ No

**APPLICATION COMPLETENESS:**

\_\_\_\_\_ Application Determined to be Complete

\_\_\_\_\_ Application Determined to be Incomplete

**ADDITIONAL MATERIALS REQUIRED TO MAKE APPLICATION COMPLETE**  
(If Application is Incomplete):

\_\_\_\_\_  
Date

\_\_\_\_\_  
Planning Board Chairman's Signature

APPENDIX K  
NOTICE OF DECISION

TO: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is to advise you that the Planning Board has acted on your  
Application/Request for: \_\_\_\_\_  
as follows:

1. Findings of Fact: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Decision:  
\_\_\_\_ Approved as Submitted; \_\_\_\_ Approved, Subject to Below  
Conditions; \_\_\_\_ Disapproved for Below Reasons; or \_\_\_\_ Other Action as  
Noted Below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Town of Chebeague Island  
Planning Board

By: \_\_\_\_\_  
Chairman



**TOWN ADMINISTRATOR  
ORDINANCE**

**of the Town of Chebeague Island  
Maine**

**PROPOSED FOR ADOPTION AT TOWN MEETING**

**JULY 1, 2007**

**CHEBEAGUE RECREATION CENTER GYMNASIUM  
8:00 A.M.**



Submitted By The Transition Representatives for the Island of Chebeague:

Dated: June 20, 2007

Donna Emily Damon  
Donna Damon

David R. Hill  
David Hill

Jim Phipps  
Steve Todd  
Steve Todd

Beth Howe  
Beth Howe, Secretary

John A. Martin  
John Martin, Chair

Mark Dyer  
Mark Dyer

Leon A. Hamilton  
Leon Hamilton

Doug Ross  
Doug Ross

Carol White  
Carol White

A true copy of the proposed ordinance,

Diane Marquis Greene  
Notary Public, Maine  
My Commission Expires November 5, 2013

Attest: Diane M. Greene  
Justice of the Peace/Notary Public

\*\*\*\*\*

RETURN ON THE WARRANT

Chebeague Island, Maine

June 20, 2007

Pursuant to the Act of Incorporation and 30-A M.R.S. § 3002(1), I have notified and warned the inhabitants of the Town of Chebeague Island, qualified as herein expressed, to meet at said time and place, for the purposes of considering the afore-referenced Ordinance, and other municipal business, by placing an attested copy of said Ordinance at the Chebeague Island Library, in said Town, being a public and conspicuous place in said Town, on the \_\_\_ day of June 2007, being at least seven days before the meeting.

John A. Martin  
Resident of Chebeague Island

Town of Chebeague Island Code of Ordinances  
Chapter 11- Administrative Code  
Article IV- Municipal Employees

**Town Administrator**  
**Ordinance**

of the Town of Chebeague Island  
**Maine**

Adopted by the Town Meeting: July 1, 2007  
Effective: July 1, 2007

Attest:

  
Town Clerk

SUSAN D. CAMPBELL  
Notary Public, Maine  
My Commission Expires May 22, 2014

Seal

Town of Chebeague Island Code of Ordinances  
Chapter 11 – Administrative Code  
Article IV – Municipal Employees

SECTION 101. TOWN OF ADMINISTRATOR.

The Board of Selectmen may employ a Town Administrator. The Town Administrator shall assist the Board with the administration of the government of the Town of Chebeague Island, performing such functions as shall be assigned by the Board, by Ordinance, by applicable law, and by job description. The Town Administrator's responsibilities may include, without limitation, the preparation of proposed budgets, warrants, articles, and ordinances; controlling and monitoring the Town's finances as Town Treasurer and Finance Director; administering the Town's general assistance program(s); supervising public safety employees, including the Town Constable/Parking Enforcement Officer and Fire Chief; serving as Road Commissioner and Animal Control Officer; supervising other Town employees hired by the Board, including the Town Clerk, Assessor, and Code Enforcement Officer; hiring and supervising other municipal employees; and contracting, subject to Board approval, with providers of municipal services. The Town Administrator shall be supervised by the Board of Selectmen, and may act independently to the extent permitted by law when the interests of the Town so require. The Board of Selectmen shall provide the Town Administrator with a job description. This job description may be amended by the Board of Selectmen.

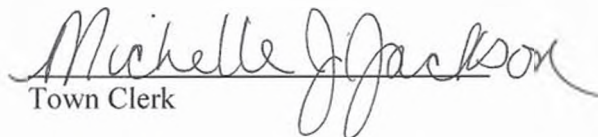
Town of Chebeague Island Code of Ordinances  
Chapter 21 – Roads and Paths  
Article 1 – Traffic and Parking Ordinance

# TRAFFIC AND PARKING ORDINANCE

of the Town of Chebeague Island  
MAINE

Adopted by the Town Meeting: 1/9/2010  
Effective: 1/9/2010  
Amended by Selectmen: 10/09/2013

Attest:

  
Town Clerk

Seal:

Town of Chebeague Island Code of Ordinances  
Chapter 21 – Roads and Paths  
Article I – Traffic and Parking Ordinance

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Traffic and Parking Ordinance in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

This ordinance is enacted to provide for the establishment of uniform rules governing the flow of traffic on Chebeague Island, and to regulate the parking of vehicles on the roads and public facilities of the Town of Chebeague Island. It is intended to ensure safety to persons and property, to promote availability and use of public facilities, to encourage and protect traditional maritime and commercial activities, to make provision for commercial maritime activities and to create a fair and efficient framework for administration of those regulations. It supersedes the similar provisions of the Town of Chebeague Island Coastal Waters Ordinance, except those sections of the same, which may be incorporated herein.

This ordinance is adopted pursuant to the Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30-A M.R.S.A, Chapter 187, Subchapter IV. This ordinance shall be subordinate to existing Federal and State Laws governing the same matters and is not intended to preempt other valid laws.

SECTION 103. DEFINITIONS

The definitions contained in Title 12-A M.R.S.A. for terms not otherwise defined in this chapter shall govern the construction of words contained in this Ordinance. Any words not otherwise defined therein shall be given their common and ordinary meaning.

SECTION 104. TOWN ROADS

- a) Speed Limits - The Maine Department of Transportation has established the speed limit on the Town Roads of Chebeague Island to be 30 MPH. The Board of Selectmen may, from time to time, petition the Department to change the posted speed limit.
- b) Plowing of Snow – Title 29-A M.R.S.A. Chapter 21, Subchapter 2396 prohibits any person from placing in the public way snow or slush that has not accumulated there naturally. A violation of this section and 29-A M.R.S.A. Subchapters 103 and 104 state that the exclusive penalty for which is a fine of not less than \$25, nor more than \$500, suspension of license, or both.
- c) Parking on Town Roads – It shall be unlawful to park a motor vehicle within the right-of-way of any town road so as to impede or create unsafe conditions for travel, maintenance, or emergency vehicle access.

SECTION 105. STONE WHARF AREA

It shall be unlawful to park a motor vehicle so as to block or restrict access to the Stone Wharf landing, ramp or pier.

- a) Bicycles shall be parked only at a rack placed in a location on the Stone Wharf as determined by the Harbormaster.
- b) Motor vehicles shall be parked for no more than twenty-four (24) hours on the Stone Wharf or on the Wharf Road.
- c) A pedestrian safety zone six (6) feet wide is hereby established on the west face of the Wharf, as shown on the Stone Wharf Parking Plan. (Attachment A)
- d) Five (5) parking spaces on the east face of the wharf shall be reserved for the use of handicapped persons.
- e) Two (2) parking spaces shall be reserved for the captain and crew of the Chebeague Transportation Company on the south face of the wharf. (Attachment A)
- f) No vehicle shall be left parked and unattended in any area that is not identified in Attachment A as a regular or reserved parking space. Parking shall be permitted on the South shoulder of Wharf Road, and no parking shall be permitted on the North shoulder.
- g) Police, fire, rescue and other emergency vehicles and equipment shall be exempt from this ordinance during times of emergency or official duties.
- h) The areas shown on the Stone Wharf Parking Plan designated as “Loading and Unloading Area” shall be reserved for loading and unloading only. No cars may be left parked and unattended in this area.
- i) During the months of June and November, the Loading and Unloading Areas as shown on the Stone Wharf Parking Plan shall be limited to temporary use to allow fishermen access to load and unload gear. The Seven (7) spaces north of the barge ramp shall be “No Parking – June and November” as depicted on Attachment A.
- j) No person shall leave any commercial fishing equipment standing for a period in excess of forty-eight (48) hours anywhere on the Stone Wharf.

SECTION 106. CHANDLER’S COVE WHARF AREA

- a) Motor vehicles shall not be parked for more than twenty-four (24) hours in either of the two town-owned parking lots, except for vehicles owned by public utility companies.
- b) One space, if necessary, shall be reserved for employees of the U.S Postal Service.

Town of Chebeague Island Code of Ordinances  
Chapter 21 – Roads and Paths  
Article I – Traffic and Parking Ordinance

SECTION 107. INDIAN POINT AREA

- a) Five (5) spaces shall be designated at the end of Indian Point Road on the inner hook side (Attachment B).
- b) No vehicle shall be left parked and unattended in any area on Indian Point Road other than the spaces identified in SECTION 107 a) of this ordinance.

SECTION 108. ADMINISTRATION AND ENFORCEMENT

This ordinance shall be administered by any duly sworn law enforcement officer and / or Parking Enforcement Attendant or any other person so designated by the Town Administrator.

Law Enforcement Officers of the Town of Chebeague Island, the Parking Enforcement Attendant or other person so authorized by the Town Administrator, shall have the authority to enforce this ordinance.

The Town Administrator shall cause fines to be collected via legal methods of collection. Any fines not collected after thirty (30) days of the issuance of a notice of violation shall be either turned over to a collection agency, prosecuted in Small Claims Court, or collected by other means such as prosecution by the Sheriff in conjunction with the District Attorney.

The Town Administrator shall have the authority to hear appeals of the issuance of the Notice of Violation. Any person aggrieved by the decision of the Town Administrator shall appeal, in writing, to the Board of Selectmen, who shall hold a hearing on the grievance at their next scheduled regular meeting.

SECTION 109. PENALTIES

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$20 and not more than \$500. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or related structure and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

Any person found in violation of the following parking provisions of this ordinance shall be subject to a fine as listed below:

- \$20 Parking in a no parking area
- \$20 Overtime parking (more than 24 hours)
- \$50 Parking in a handicapped parking space
- \$20 Parking in a loading zone

Town of Chebeague Island Code of Ordinances  
Chapter 21 – Roads and Paths  
Article I – Traffic and Parking Ordinance

SECTION 110. AMENDMENTS

Subsequent to adoption of this Ordinance at a Town Meeting, and after a duly noticed hearing, the Board of Selectmen have the authority to make amendments, deletions and additions to this Ordinance as they deem to be in the best interest of the Town of Chebeague Island.

SECTION 111. SEVERABILITY

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



**ATTACHMENT A**

**Stone Wharf Parking Plan**



**ATTACHMENT B**

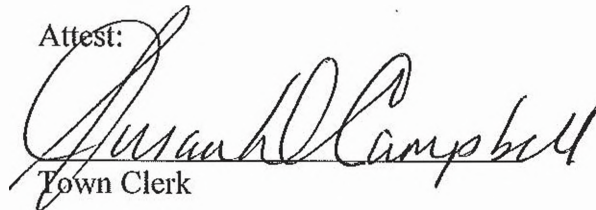


# VICTUALERS ORDINANCE

of the Town of Chebeague Island  
MAINE

Adopted by the Town Meeting:  
Effective: 20 November 2010

Attest:



Susan Campbell  
Town Clerk

Seal:

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Victualers” Ordinance in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to protect the public safety by regulating the preparation of food for public consumption. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3812.

SECTION 103. DEFINITIONS

- a) **VICTUALER** (*vit-a-ler*) shall mean any person who operates a business in the Town of Chebeague Island that prepares and/or serves food or drink for consumption by the public within the Town of Chebeague Island and who must file form HHE-602 with the Maine Department of Health and Human Services.
- b) **FACILITY** shall include a: restaurant, bed and breakfast, motel, hotel, convenience store, outdoor facility or other facility where food is prepared for public consumption.
- c) **BOARD** shall mean the Town of Chebeague Island Board of Selectmen.
- d) **MUNICIPAL VICTUALER’S INSPECTION** shall mean an inspection by the Municipal Fire Chief (or his designee) and the Municipal Health Officer. A successful inspection requires each inspector to file a form supplied by the Town Clerk. The completed form must represent that public safety is protected. The Town Office will assist applicants in scheduling inspections during regular business hours.

SECTION 104. LICENSE

It shall be unlawful for any victualer to operate within the Town of Chebeague until they have met the requirements of this Ordinance and been granted a victualer’s license by the Board. All licenses granted under this Ordinance expire coincident with State licenses submitted per Section 105a.

SECTION 105. REQUIREMENTS

- a) **APPLICATION** – Application may be made to the Town Clerk by submitting a payment of the fee and a copy of Maine Department of Health and Human Services form HHE-602 (or other applicable State form). A successful municipal inspection is required. Application for a new license must be approved by the Board at any properly noticed meeting.
- b) **GROUND FOR DENIAL** – The Board may deny an application for license if any conditions of this ordinance are not met or if the Board determines that issuing a license will not adequately protect the public safety. A denial must be made in writing to the applicant clearly citing the reasons for denial.

- c) RENEWAL – Application for renewal may be made to the Town Clerk by certifying in writing that all State requirements have been met. The Town Clerk will grant a renewal upon proper certification and a successfully completed municipal inspection. Appeals to a renewal decision may be made in writing to the Board of Selectmen.
- d) STATE INSPECTIONS – Any inspections of the facility carried out by State officials must be recorded with the Town Clerk (also see Section 106).

#### SECTION 106. REVOCATION

The Municipal Officers may revoke a license under this Ordinance by written notice to the applicant and after a properly noticed hearing. Findings must show that the licensee is in significant violation of Section 105 of this Ordinance, the Maine Food Code as adopted by The Maine Department of Human Services – 10-144 CMR 200, or the municipal building or fire codes and as a result public safety is at risk.

In order to determine cause for a hearing and to make proper findings the Board may require inspections by the Health Officer, Fire Chief and Code Officer who shall use inspection forms provided by the Town Clerk to file written reports to the Board. Inspections may occur without notice during regular business hours.

#### SECTION 107. FEE

An application fee for license and license renewal may be set by the Board in accordance with Ch 11 Art. II Sec. 109(S) of the Town Code of Ordinances.

#### SECTION 108. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the Town Administrator and may be enforced by the municipal officers or law enforcement officers with jurisdiction in the Town of Chebeague Island.

#### SECTION 109. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

#### SECTION 110. SEVERABILITY

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

# ZONING ORDINANCE

## of the Town of Chebeague Island, Maine

Adopted by the Town Meeting:  
July 1, 2007  
Effective July 1, 2007  
Amended: September 13, 2008  
Amended: June 11, 2016  
Amended: April 7, 2018

Attest:

  
\_\_\_\_\_  
Town Clerk

Seal:



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## **SECTION 100 TITLE, PURPOSE, DEFINITIONS**

### **Sec. 101**

#### **Title**

This ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Chebeague Island, Maine."

### **Sec. 102**

#### **Purpose**

The purpose of this Ordinance is to promote public health, safety, and general welfare; to encourage the most appropriate use of land throughout the Town of Chebeague Island (the "Town"); to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to provide a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; and to provide an allotment of land area in new developments sufficient for all public services.

This Ordinance reflects land use regulations imposed by the Town of Chebeague Island. Additional Federal and/or State approvals, permits, and/or licenses, including from the State of Maine Department of Environmental Protection, United States Environmental Protection Agency, and the United States Army Corps of Engineers, may be required.

### **Sec. 103**

#### **Authority**

This ordinance is enacted pursuant to Article VIII, Second Part of the Constitution of the State of Maine and the laws of the State of Maine, including, but not limited to 30-A M.R.S. and 38 M.R.S. §435, et seq.

### **103.1**

#### **Table of Contents and Index**

The Table of contents and index developed for this Ordinance are not a part of the Ordinance and may be changed by the Planning Board to better clarify the location of sections of the Code. Footnotes are not part of the Ordinance. They are added for reference and commentary only.

### **Sec. 104**

#### **Intent**

Unless otherwise specified, it is the intent of this ordinance that any use not specifically allowed as a permitted use or a special exception use is prohibited.

### **Sec. 105**

#### **Land Use Requirements**

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations

herein specified for the district in which it is located, unless a variance is granted.

**Sec. 106**      **Availability**

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

**Sec. 107**      **Severability**

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

**Sec. 108**      **Conflicts with Other Ordinances**

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

**Sec. 109**      **Official Zoning Map (Appendix A)**

The zoning map officially entitled "Town of Chebeague Island Zoning Map" dated April 7, 2018 (Appendix A), and on file in the office of the Town Clerk and filed with the Cumberland County Registry of Deeds is hereby adopted as part of this ordinance. Regardless of the existence of other printed copies of the zoning map, the said zoning map on file and as officially adopted by the Town of Chebeague Island Town Meeting shall be the final authority as to the location of zoning districts in the Town; provided, however, that notwithstanding said zoning map, the entire surface area of the following islands is contained within the Resource Protection district: Bangs Island, Little Chebeague Island, Stockman Island, Jewel Island, Little Jewel Island, West Brown Cow Island, Crow Island, Broken Cove Island, Goosenest Island, Rogues Island, Upper Green Islands, and Sand Island.

The Town of Chebeague Island Zoning Map divides the Town into the following Shoreland Zoning Overlay districts:

- Shoreland Resource Protection Overlay (RP)
- Resource Protection/Floodplain Overlay (RP/FP)
- Limited Residential Overlay (LR)
- Limited Commercial Overlay District (LC)
- Commercial Fisheries/Maritime Activities Overlay (CFMA)

The Town of Chebeague Island Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

The Town of Chebeague Island 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.

If amendments, in accordance with Section 605, are made in the district boundaries or other matters in the Shoreland Districts portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

## **Sec. 110**

### **Definitions**

The word "person" includes an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure", and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". Terms not defined shall have their customary dictionary meaning. Other terms shall be defined as follows:

### **Accessory Building or Use**

Accessory Building or Use shall mean subordinate building or use customarily incidental to, and located on the same lot with, the main building or use, including farm markets for the sale of agricultural and similar products where at least 60% of the gross receipts are derived from the sales of products produced or grown, or where some ingredients of products are grown or produced, on the lot. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

### **Acre**

An acre means a unit of area measure consisting of 43,560 square feet.

**Aggrieved party**

Aggrieved Party shall mean 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**

Agriculture shall mean the use of a tract of land for commercial purposes for cultivation and the production of crops, truck gardening, nurseries or greenhouses, or any allied industry, but exclusive of animal husbandry and exclusive of private gardens less than 1/2 acre. Agriculture does not include forest management and timber harvesting activities.

**Airport, Private, Personal Use**

Airport, Private, Personal Use shall mean an airstrip restricted to use by the airstrip owner or lessee, and on an occasional basis, by his invited guests.

**Alternative Tower Structure**

Alternative Tower Structure shall mean clock towers, bell steeples, light poles and water towers, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Animal Husbandry**

Animal Husbandry is the keeping of animals for commercial purposes, including dairying, stock raising, poultry raising, and breeding.

**Antenna**

Antenna shall mean any structure or device used for the purpose of wireless transmitting or receiving electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

**Antenna Array**

Antenna Array shall mean a set of antennas for one carrier or service that are placed on a mount at a given height, and spaced so as to avoid internal interference.

**Aquifer**

Aquifer shall mean geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water.



**Aquaculture**

Aquaculture shall mean the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Aquifer Recharge Area**

Aquifer Recharge Area shall mean land area composed of soil or rock that is significantly permeable to allow infiltration and percolation of surface water into an aquifer.

**Auto Repair Service Garage**

Auto Repair Service Garage shall mean a business establishment engaged in general repair, engine rebuilding, parts replacement, rebuilding or reconditioning of motor vehicles, body, frame or fender straightening and repair, painting and undercoating, but where no engine fuels are sold.

**Backlot**

Backlot shall mean a lot which does not abut or front on a street, and where access to the road is by a private right-of-way.

**Basement**

Basement shall mean 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.

**Bed and Breakfast Inn**

Bed and Breakfast Inn shall mean single family dwelling in which the resident or residents of the dwelling provide overnight lodging to paying guests in a maximum of six guest bedrooms located within the dwelling or permitted attached structures. Total sleeping accommodations shall be for twelve (12) or fewer guests. Breakfast shall be the only meal served to guests and shall be limited to overnight guests. Rentals for more than one month in a calendar year to the same guest(s) are prohibited. The inn shall function as a private home with house guests.

In addition to any other review required under this ordinance, a bed & breakfast inn shall be considered a home occupation and shall be allowed under the conditions and regulations applicable to home occupations subject to Site Plan Review and approval by the Planning Board if providing four or more guest bedrooms.

A structure shall not be used or occupied as a bed & breakfast inn until the Town of Chebeague Island Fire Chief certifies the structure to be in compliance with applicable sections of the most recent edition of the NFPA 101 Life Safety Code including but not limited to Chapters 20 & 22, all necessary State approvals have been received, and a certificate of use and occupancy has been issued by the Code Enforcement Officer.

**Boarding Care Facility**

Boarding Care Facility shall mean a house or other place having more than two residents which, for consideration, is maintained wholly or partly for the purpose of boarding and caring for the residents. For the purposes of the Town of Chebeague Island Zoning Ordinance, "boarding care facility" shall include only those facilities which have been certified, or which will be certified prior to the issuance of any use permits under this ordinance, by the State of Maine as meeting all licensing and operation regulations for boarding care facilities as promulgated by the Maine Department of Health and Human Services.

**Boarding kennel**

Boarding kennel shall mean any place, building, tract of land or abode in which more than three privately owned dogs or other pets, or both, are kept at any one time for their owners in return for a fee.

**Boat Launching Facility**

Boat Launching Facility shall mean 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.

**Building**

Building shall mean any structure used or intended for supporting or sheltering any use or occupancy.

**Building Area**

Building Area shall mean a total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

**Building Height**

Building Height shall mean 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.

**Bureau of Forestry**

State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

**Campground**

Campground shall mean 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**

Canopy shall mean the more or less continuous cover formed by tree crowns in a wooded area.

**Cellar**

Cellar shall mean that portion of a building that is partly or completely below grade and having at least one-half its height below grade.

**Clinic**

Clinic shall mean an office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

**Cluster System**

Cluster System shall mean a subsurface sewage disposal system that receives the effluent from two or more house units, individual homes, or systems in excess of 400 gallons per day.

**Clustered Residential Development**

Cluster Residential Development shall mean a type of development where building lots are smaller with lot frontages that are shorter than those in a traditional subdivision, are grouped on certain portions of the site that are best suited for development, and other areas remain open and free from development. The homes may or may not be connected to the public sewer system.

**Co-location**

Co-location shall mean the location of more than one telecommunications facility (use) on a tower or alternative tower structure.

**Commercial Fishing**

Commercial Fishing shall mean activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets, and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

**Commercial Use**

Commercial Use shall mean 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.

**Community Living Use**

Community Living Use shall mean a state-approved, authorized, certified or licensed group home, or intermediate care facility for mentally retarded

group home, for eight or fewer mentally handicapped or developmentally disabled persons.

**Condominium**

Condominium shall mean a type of real estate ownership in which individual units are owned separately and all of the rest of the property is owned in common by all of the owners of individual units.

**Congregate Housing**

Congregate Housing shall mean residential housing consisting of private living quarters, with or without cooking facilities, within which a supportive services program is provided to functionally impaired residents who have difficulty living independently without assistance, yet who do not require the level of service available at a nursing home or boarding care facility as herein defined. For the purposes of the Town of Chebeague Island Zoning Ordinance, "congregate housing" shall include only those facilities which have been certified, or which will be certified prior to the issuance of any use permits under this Ordinance, by the State of Maine as meeting all regulations governing the administration of congregate housing services programs for the elderly.

**Construction Operations**

Construction Operations shall mean the use of a tract of land for the storage of construction equipment and materials used in residential and commercial construction. This use does not include the manufacturing or processing of concrete and/or asphalt, or the extraction or processing of earth materials.

**Continuing Care Retirement Community**

Continuing Care Retirement Community shall mean a residential care facility, with or without guaranteed lifetime care, which provides any combination of nursing home, boarding care, and congregate housing services as defined herein. For the purposes of the Town of Chebeague Island Zoning Ordinance, "continuing care retirement community" shall include only those facilities which have been certified, or which will be certified prior to the issuance of any use permits under this Ordinance, by the State of Maine as meeting all applicable regulations for nursing homes, boarding care facilities, and congregate housing as promulgated by the Maine Department of Health and Human Services.

**Coverage**

Coverage shall mean that percentage of the lot area covered by the building area.

**Day Care Home**

Day Care Home shall mean a house or other place conducted or maintained by anyone who provides, on a regular basis and for consideration, care and protection which is required to be licensed by the State, for three to twelve unrelated persons for any part of a day. Any facility, the chief purpose of which is to provide education, shall not be considered to be day care home.

In addition to any other review required under this ordinance, a day care home shall be considered a home occupation and shall be allowed under the conditions and regulations applicable to home occupations.

**Day Care Center**

Day Care Center shall mean a house or other place conducted or maintained by anyone who provides, on a regular basis and for consideration, care and protection for 13 or more children under 16 years of age, except children related to the operator by blood, marriage or adoption, who are unattended by parents or guardians, for any part of a day, except that any facility the chief purpose of which is to provide education, shall not be considered to be a day care center.

**Development**

Development shall mean a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Dimensional requirements**

Dimensional requirements shall mean numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability**

Disability shall mean 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**

Disruption of shoreline integrity shall mean 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.

**District**

District shall mean a section or sections of the Town of Chebeague Island for which regulations governing the use of buildings and premises, the size of yards, and intensity of use are uniform.

**Driveway**

Driveway shall mean a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

**Duplex**

Duplex shall mean a building used or intended for residential use containing two attached dwelling units.

**Dwelling, Attached**

Dwelling, Attached shall mean a dwelling which shares a common wall with one or more other dwellings, and which has independent outside access.

**Dwelling, Detached**

Dwelling, Detached shall mean a dwelling which is physically separate from any other building, including manufactured housing which is composed of two or more sections joined lengthwise, with the exception of accessory buildings.

**Dwelling Unit**

Dwelling unit shall mean a group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking and eating, the total floor area for which is not less than 600 square feet.

**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 and property from the threat of destruction or injury.

**Essential services**

Essential services shall include gas, electrical, communication facilities, steam, fuel or water supply, transmission, or distribution systems.

**Expansion of a Structure**

Expansion of a Structure shall mean an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of Use**

Expansion of Use shall mean the addition of one or more months to a use's operating season; or the use of more footprint of a structure\_or ground area devoted to a particular use.

**Family**

Family shall mean one or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage, but no unrelated group shall consist of more than 5 persons, as distinguished from a group occupying a boarding house, lodging house, or hotel.

**Floodway**

Floodway shall mean 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**

Floor Area shall mean the sum of the gross horizontal area of the floors of a building, enclosed by exterior walls, excluding basement floor areas. All dimensions shall be measured between interior faces of walls.

**Footprint**

The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**Foundation**

Foundation shall mean the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

**Freshwater Wetland**

Freshwater Wetland shall mean freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- A. Of ten (10) or more contiguous acres, or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river or stream or brook, such that, in a natural

state, the combined surface area is in excess of ten (10) acres;  
and

- B. 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.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

**Gasoline Station**

Gasoline Station shall mean a building or land that is used for the sale of motor fuel, oil, and motor vehicle accessories, and servicing motor vehicles, and which may include facilities for lubricating or washing, but not including painting, major repairs, storage of vehicles or sales of vehicles.

**Grade**

Grade shall mean a reference plane representing the mean original (prior to construction) average of finished ground level adjoining the building at all exterior walls.

**Ground Cover**

Ground Cover shall mean small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Groundwater**

Groundwater shall mean all water found beneath the surface of the earth.

**Guest House**

Guest House shall mean a separate single-family dwelling intended for the private use of the property owner and located on the same parcel as the principal residential structure. A guest house shall not be leased or rented to a non-family member.

**Hazardous Waste**

Hazardous Waste shall mean any substance or materials which are gaseous, liquid, semi-solid or solid, and which are designated as hazardous by the United States Environmental Protection Agency in regulations which have been proposed or finally promulgated pursuant to the United States Resource and Recovery Conservation Act, Public Law 94-580 and amendments to the Act.



**Height of a Tower**

The Height of a Tower shall mean, when referring to a tower, the distance measured from ground level to the highest point on the tower, even if said point is an antenna.

**Heliports, Private, Personal Use**

Heliports, Private, Personal Use shall mean a heliport restricted to use by helipad owner or lessee, and on an occasional basis, by his invited guests.

**Home Occupations**

Home Occupations shall mean an occupation performed or conducted within a dwelling or an accessory structure by the residents thereof, which:

- A. Is accessory to a residential use, and;
- B. Is clearly incidental and secondary to the residential use of the dwelling unit, and;
- C. Does not change the character of the dwelling.

Home occupations may include, but are not necessarily limited to, arts and crafts work, dressmaking, tutoring, music teaching, the use of a portion of a dwelling as a bed and breakfast inn, a day care home, professional offices such as those of a physician, dentist, lawyer, engineer, architect, hairdresser, barber, real estate broker, insurance agent or accountant, or similar uses.

**Home-based Occupations**

Home-based Occupation shall mean an occupation based or located within a dwelling or an accessory structure which is performed or conducted at a location or locations remote from the dwelling and which:

- A. Is accessory to a residential use; and
- B. Is clearly incidental and secondary to the residential use of the dwelling unit; and
- C. Does not change the character of the dwelling.

**Hotel**

A building containing individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation, and in which access to all rooms is made through an inside office or lobby.

**Impervious Surface**

Structures and other man-made improvements to land and materials covering the land which substantially reduce the infiltration of water. Impervious surfaces shall include, but are not limited to, roofs, paved areas, parking lots and driveways, regardless of surface materials.

**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. 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.

**Junk Yard**

A yard, field, or other area used as a place for storage for more than thirty days for three or more unserviceable, discarded, worn-out, or junk motor vehicles. Also a yard, field, or other area used as a place of storage for (a) discarded, worn-out, or junk plumbing, heating supplies, household appliances or furniture and/or (b) discarded, scrapped, or junk lumber and/or (c) old scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, and/or scrap metal.

**Landscaping Services**

The business location of a person engaged in the commercial practice of landscaping and who performs or furnishes the labor, and/or materials necessary to maintain or beautify land by contract or consent of the land owner, including, but not limited to; lawn care, planting and care of trees and shrubs, and winter maintenance such as snow removal; but not including retail sales of landscaping materials or tools.

**Leachable Material**

Liquid or solid materials including solid wastes, sludge, and agricultural wastes that are capable of releasing water-borne contaminants into the groundwater.

**Light Manufacturing**

An establishment which is engaged in the mechanical transformation of materials into new products, including the assembling of component parts, and which has the following characteristics:

- A. Does not create any offensive smoke, dust, odor, or other unhealthy or offensive air-borne discharge;
- B. Does not create any offensive noise or vibration;
- C. Does not include any outdoor storage of equipment or material; and
- D. Is designed so that the external appearance of any building is compatible with the neighborhood in which it is located.

**Lodging House**

A building used for temporary occupancy of individuals who are lodged with or without meals and in which bathroom facilities may be shared.

**Lot**

A tract or parcel of land, in the same ownership, provided that parcels located on opposite sides of a public or private road shall be considered each a separate tract or parcel unless such road was established by the owner of the parcels on both sides thereof.

**Lot Area**

Total horizontal area within the property lines excluding any part thereof lying within the boundaries of a public street, or proposed public street and excluding land below the normal high-water line of a water body or upland edge of a wetland.

**Lot Corner**

A lot which has an interior angle of less than 135 degrees at the intersection of two streets. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle less than 135 degrees.

**Lot Frontage**

For residential uses, the distance measured along a street or public right-of-way, for all other uses the distance measured along a Street.

**Lot Line**

Property line bounding a lot.

- A. Lot line, front: The lot line separating a lot from a street or other right-of-way providing access to the lot.

B. Lot line, rear: The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, a line ten feet in length that is located entirely within the lot and is parallel to and at a maximum distance from the front lot line. On a lot that abuts more than one street, the rear lot line shall be that line opposite the shortest front lot line. Where all front lot lines are the same length, the rear lot line shall be designated by the owner as part of the first application for a building permit submitted for the lot after the effective date of this section.

C. Lot line, side: Any lot line other than a front or rear lot line.

**Manufactured Housing**

This term shall be as defined in 30-A M.R.S. § 4358, as amended from time to time, and shall include both "mobile homes" and "modular homes" as defined therein.

**Marina**

A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore mooring 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.

**Mobile Home Park**

Mobile home park means a parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.

**Mobile Home Park Lot**

Mobile home park lot means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home.

**Multiplex**

A multiplex shall mean an existing single-family dwelling converted to a dwelling containing more than two attached dwelling units.

**Municipal Uses or Buildings**

Municipal uses or buildings shall mean any use or building maintained by the Town of Chebeague Island.

**Net Residential Acreage**

Net residential acreage shall be determined by subtracting from gross acreage available the following:

- A. 15% for roads and parking.
- B. Land which is cut off from the main parcel by a road, existing land uses, a utility easement or right-of-way or major stream so as to serve as a major barrier to common use, or so that it is isolated and unavailable for building purposes. (Final determination by Planning Board.)
- C. Other areas which are difficult to develop in their natural state because of topography, drainage or subsoil conditions. Specific conditions include but are not limited to:
  - 1. Slopes in excess of 20% sustained for 30,000 square feet or more;
  - 2. Wetlands as defined in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands dated 1/10/89 and as amended from time to time;
  - 3. Land shown to be in a 100 year flood zone as shown on the Flood Insurance Rate Map (FIRM) (Appendix B);
  - 4. Land in rights-of-way or easements, but not including land in open space easements under Sec.406;
  - 5. Resource Protection Districts.

**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, lot coverage or footprint, 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.

**Nursery School**

A house or other place in which a person or combination of persons maintains or otherwise carries out for consideration, during the day, a regular program which cares for three or more children, provided that:

- A. No session conducted for the children is longer than 3 1/2 hours in length;
- B. No more than 2 sessions are conducted per day;
- C. Each child in attendance at the nursery school attends only one session per day; and
- D. No hot meal is served to the children.

The term does not include any facility operated as a day care center, a summer camp established solely for recreational and educational purposes or a public or private school in the nature of a kindergarten approved by the Commissioner of Educational and Cultural Services, in accordance with State statute as amended from time to time.

**Outdoor Recreational Facility**

A place designed and equipped primarily for the conduct of non-motorized outdoor sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities, amusement parks, campgrounds, and which has the following characteristics:

- A. the total area of all buildings and structures, parking lots and other non vegetated surfaces not exceed 10% of the total lot area.
- B. exterior lighting shall be used for the purposes of ensuring safe movement of people and vehicles, but not to provide illumination for nighttime use of the outdoor activity

The above notwithstanding, nothing in this definition may be read to prohibit the continued use by snowmobiles of existing snowmobile trails.

**Parking Lot**

An off-street area for more than three cars.

**Parking Space**

Off-street space used for the temporary location of one licensed motor vehicle, which is at least nine feet wide and twenty-two feet long, not including access driveway, and have direct access to a street or alley.

**Permitted Use**

A use specifically allowed in a zoning district, excluding non-conforming uses and special exceptions.

**Personal Services**

Businesses providing services of a personal nature, such as barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, or photographic studio.

**Piggery**

A building or portion thereof, or an enclosure, used or designed for the keeping of more than five pigs more than six months old.

**Practical Difficulty**

Practical difficulty shall mean that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner. An applicant for a practical difficulty variance must show compliance with the following standards:

- 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 the shoreland areas as described in 38 M.R.S. § 435.

For the purposes of this section, “dimensional standards” means and is limited to ordinance provisions relating to lot coverage, frontage and setback requirements.

**Principal structure**

A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

**Principal use**

A use other than one which is wholly incidental or accessory to another use on the same lot.

**Private Club**

Building or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.

**Private kennel**

Any premises used for the harboring of more than three dogs under one ownership that are more than 6 months old.

**Privy**

A pit in the ground into which human excrement is disposed.

**Professional Office**

A building singularly used for the individual or group practice of doctors, lawyers, dentists, optometrists, architects, engineers, accountants, realtors, insurance agents, or a building used for the branch office of a bank.

**Public Facility**

Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.



**Recent Flood Plain Soils**

The following soils series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

**Recreational Facility**

A recreational facility is 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 recreational vehicle is 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 of Maine Bureau of Motor Vehicles.

**Religious Institution**

Includes church, temple, parish house, convent, or seminary.

**Replacement System**

A subsurface wastewater disposal system intended to replace: (1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or (2) any existing overboard wastewater discharge.

**Residential Care Facility**

A facility defined herein as a boarding care facility, congregate housing, community living use, or continuing care retirement facility.

**Retail Store**

Any shop or store for the retail sale of goods or personal services, excluding any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

**Riding Stable**

Any place at which horses or ponies are kept for hire either with or without instructions in riding.

**Rip-rap**

Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**Right-of-way**

A legally created public or private right to pass over the property of another. A private right-of-way is one that is created through a deed; a public right-of-way may be created through a deed, through dedication and acceptance, through laying out and taking or by public prescriptive use. A street right-of-way shall include all land within the lines of the street, whether improved or unimproved.

**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.

**School**

A public or private kindergarten, elementary or secondary school, approved as such by the State of Maine, including accessory uses thereto, and providing instructional services to more than ten students.

**Service drop**

Any utility line extension which does not cross or run beneath any portion of a water body provided that:

- A. in the case of electric service
  1. 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
  2. the total length of the extension is less than one thousand (1,000) feet.
- B. in the case of telephone service
  1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

2. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

### **Setback**

The shortest horizontal distance between a lot line and any structure on a lot. A street or other right-of-way, other than a driveway that serves no more than two (2) residential lots, that is or may be utilized for motor vehicle access or a street shown on a subdivision plan recorded in the Registry of Deeds in which the Town of Cumberland (prior to July 1, 2007) or the Town of Chebeague Island (on or after July 1, 2007) has reserved its right under the provisions of 23 M.R.S. § 3032 shall not be included within a setback. Where a street or other right-of-way that is or may be used for motor vehicle access, other than a driveway that serves no more than two residential lots, is located within the boundaries of a property, the required setback shall be measured from the nearest edge of the street or right-of-way rather than the property line.

### **Signs**

The display of a word or words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, pictures, trade names, trade marks by which anything is made known, and/or combination of these shall be deemed signs.

### **Special Exception**

A use that would not be appropriate generally or without restriction throughout a zoning district by which, if controlled as to number, areas, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a zoning district by the Board of Adjustment and Appeals, if specific provision for such special exceptions is made in this Zoning Ordinance.

### **Story**

That portion of a building including between the upper surface of a floor and the upper surface of the floor or roof next above.

### **Stream**

The confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

**Streets**

Any vehicular right-of-way that is (1) an existing Town, state or county road; (2) shown upon a subdivision plat approved by the Planning Board; (3) accepted or laid out and taken through action of the Town Meeting; (4) a private right-of-way approved by the Town in accordance with the provisions of Section 423 of this Ordinance; or (5) a street shown on a subdivision plan in which the Town of Cumberland (prior to July 1, 2007) or the Town of Chebeague Island (on or after July 1, 2007) has reserved rights under the provisions of 23 M.R.S. § 3032.

**Structure**

Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected 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.

**Structural Alteration:**

Any change to a structure, other than simple replacement in the supporting members, such as posts, columns, plates, joists, or girders.

**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. § 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.

**Telecommunications Facility**

Telecommunications facility shall mean any structure, antenna, tower, or other device which provides radio/television transmission, telecommunications services, or any other spectrum-based transmissions/receptions, together with the facility's associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronic and

other types of equipment for the transmission, receipt, distribution or offering of such services.

**Tower**

Tower shall mean any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

**Traditional Residential Development or Subdivision**

A type of development where building lots are at least the minimum lot size for the district in which it is located. A small portion of the lot may remain open and free from development

**Trailer**

A vehicular portable structure designed as a temporary dwelling for travel or recreational uses, not more than eight feet in body width and thirty-two (32) feet in body length.

**Tree**

A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary stream**

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.

**Undue Hardship**

For any sign or height variance or for any structure that is located on a lot that is in whole or in part in a shoreland area, undue hardship shall mean:

- A. The land in question cannot yield a reasonable return unless a variance is granted;

- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- C. The granting of a variance will not alter the essential character of the locality; and
- .D The hardship is not the result of action taken by the applicant or a prior owner

**Upland Edge**

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the Highest Astronomical Tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

[Note: The Highest Astronomical Tide is the elevation of the highest observed astronomical tide over the current or most recent 19-year National Tidal Datum Epoch (1983 to 2001)]

**Variance**

A relaxation of the terms of this Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of setbacks and lot coverage and/or the size of signs; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

For Shoreland Areas a variance shall also be authorized for percent of lot coverage, lot width, lot area, setbacks, substantial expansions and water frontage requirements.

**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.

## **SECTION 200 ZONING DISTRICTS**

### **Sec. 201 Zoning Districts**

The Town of Chebeague Island Zoning Map divides the Town into the following districts:

Island Residential (IR)  
Island Business (IB)

### **Sec. 202 District Boundaries**

Where uncertainty exists with respect to the boundaries of the various zones as shown on the official zoning map, the following rules shall apply:

#### **202.1**

Unless otherwise indicated, district boundaries shown within the lines of roads, streams and transportation rights of way shall be deemed to follow center lines. The abandonment or non-use of roads shall not affect the location of such district boundaries. Development of property which is in more than one zoning district shall be controlled by the classification of the area to be used.

#### **202.2**

The Shoreland Zoning Overlay Districts depicted on the Official Zoning Map shall be controlled by the “Shoreland Zoning Ordinance of Chebeague Island” under a separate ordinance. Whenever there is a conflict between this Ordinance and the Shoreland Zoning Ordinance the more restrictive provision shall control.

### **Sec. 203 District Objectives**

#### **203.1**

No building shall hereafter be erected or altered to house a greater number of families, or to have a smaller setback, or to occupy a smaller lot, than is specified herein for the district in which such building is located.

#### **203.2**

No use of land or buildings shall be allowed, nor shall any building be erected or altered for a use, which use is not specifically allowed within the district in which it is located, except as permitted under Section 500, Nonconforming Uses.



### **203.3**

No parcel of land shall be subdivided into lots smaller than the minimum lot size specified for the district in which the parcel is located, except as allowed under Section 205, Lot Regulations.

## **Sec. 204 District Regulations**

### **204.1 Island Residential District (IR)**

- A. The following uses are permitted in the IR district:
  - 1. Single family detached dwellings and duplex dwellings,<sup>1</sup>
  - 2. Manufactured housing and mobile home parks as defined in 30-A M.R.S. § 4358(1);
  - 3. Agriculture;
  - 4. Uses related to commercial fishing, including storage and repair of traps, seines, boats and other equipment, the keeping and cooking of fish for sale at retail on the premises, and fish processing as a home occupation;
  - 5. Private Heliport for Personal Use, subject to Site Plan Review and to the provisions of Section 420;
  - 6. Antennas as defined in Sec. 110, subject to Site Plan Review, and Section 427;
  - 7. Uses and buildings accessory to those above.
  
- B. The following uses are allowed as special exceptions in the IR district, requiring the approval of the Board of Adjustment and Appeals:
  - 1. Home occupations;
  - 2. Above ground utility lines not located in a public way;
  - 3. Private kennels;
  - 4. Temporary sawmill, subject to the provisions of Sec. 428;
  - 5. Excavation of lands, subject to the provisions of Sec. 411;
  - 6. Animal husbandry;
  - 7. Municipal buildings and uses, subject to Site Plan Review;
  - 8. Accessory structures of public utilities, subject to Site Plan Review;
  - 9. Cemeteries, subject to Site Plan Review;
  - 10. Private clubs, subject to Site Plan Review;
  - 11. Religious institutions, subject to Site Plan Review;
  - 12. Funeral homes, subject to Site Plan Review;

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<sup>1</sup> Accessory apartments and “manor houses” are also allowed in the IR district. They are defined and regulated under Sec. 407: Conversions.

13. Any use permitted in Island Business (IB), subject to Site Plan Review;
  14. Boat building, storage, or marina, subject to Site Plan Review;
  15. Private schools, subject to Site Plan Review;
  16. Boarding kennels, subject to Site Plan Review;
  17. Riding stable, subject to Site Plan Review;
  18. Professional office building, subject to Site Plan Review;
  19. Campgrounds;
  20. Extraction and/or bulk storage of ground water subject to the provisions of Sec. 430;
  21. Day care centers and nursery schools, subject to the provisions of Sec. 409 and Site Plan Review;
  22. Uses and buildings accessory to those above.
- C. The following lot standards shall apply to all lots within the IR district created on August 1, 1975 or later:
1. 1.5 acre minimum lot size;
  2. In the case of duplex development, there shall be no less than 0.94 acres of lot area per dwelling unit;
  3. There shall be no less than 150 feet of lot frontage.
- D. The following minimum setbacks are required for all structures in the IR district that are more than 1.5 acres in size or that were created on or after August 1, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines:
1. Front: 55 feet;
  2. Rear: 65 feet;
  3. Side: 30 feet - combined width at least 65 feet;
  4. Shoreland setbacks shall be as required by the Shoreland Zoning Ordinance.
- E. The following minimum setbacks are required for all lots in the IR district that are less than 1.5 acres and that were created on or before July 31, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines:
1. Front: 25 feet;
  2. Rear: 20 feet;
  3. Side: 20 feet;
  4. Shoreland setbacks shall be as required by the Shoreland Zoning Ordinance.

## **204.2 Island Business District (IB)**

Site plan review and approval by the Planning Board is required for all permitted uses and special exceptions, with the exception of single-family dwellings, day care homes, bed & breakfast inns with three or fewer guest bedrooms, home occupations, agriculture, and animal husbandry and uses related to commercial fishing as allowed in 204.2.A.4 below.

A The following uses are permitted within the IB District:

1. Single family detached dwellings and duplex dwellings;
2. Manufactured housing and mobile home parks as defined in 30-A M.R.S. § 4358(1);
3. Retail stores;
4. Uses related to commercial fishing, including, but not limited to, storage and repair of boats and equipment, the keeping and cooking of fish for retail sale on the premises, and fish processing as a home occupation;
5. Marinas, and other facilities for building and storage of boats;
6. Personal services;
7. Private clubs;
8. Restaurants;
9. Private schools;
10. Municipal buildings and uses;
11. Religious institutions;
12. Private Heliport, Personal Use, subject to Site Plan Review and to the provisions of Sec. 420;
13. Home occupations (special exception not required notwithstanding Sec. 414);
14. Auto repair service garage;
15. Residential Care Facility;
16. Agriculture;
17. Public Facility;
18. Business/professional offices;
19. Uses and buildings accessory to those above.

B. The following uses are allowed in the IB District as special exceptions, requiring the approval of the Board of Adjustment Appeals:

1. Accessory structures of public utilities;
2. Above ground utility lines not located in a public way;
3. Gasoline stations, and other facilities for the retail sale and storage of petroleum products;

4. Funeral homes;
5. Day care centers and nursery schools, subject to the provisions of Sec. 409 and Site Plan Review;
6. Residential care facilities,
7. Animal husbandry
8. Telecommunications Facilities, subject to Site Plan Review and the provisions of Sec. 427,
9. Uses and buildings accessory to those above.

C. The following lot standards shall apply to all lots within the IB District created on August 1, 1975 or later:

1. 1.5 acre minimum lot size for single family detached dwellings;
2. In the case of duplex development, there shall be no less than 0.94 acres of lot area per dwelling unit;
3. There shall be no less than 150 feet of lot frontage on a public right-of-way.

D. The following setbacks are required for all structures in the IB District that are more than 1.5 acres in size or that were created on or after August 1, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines,.

1. Front: 55 feet;
2. Rear: 65 feet;
3. Side: 30 feet - combined width at least 65 feet;
4. Shoreland setbacks shall be as required by the Shoreland Zoning Ordinance.

E. The following minimum setbacks are required for all lots in the IB district that are less than 1.5 acres and that were created on or before July 31, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines:

1. Front: 25 feet;
2. Rear: 20 feet;
3. Side: 20 feet
4. Shoreland setbacks shall be as required by the Shoreland Zoning Ordinance.

**Sec. 205      Lot Regulations**

**205.1**

Lots which abut on more than one street shall provide the required front setbacks along each and every public street on which that lot abuts, unless a public street was created and built by someone other than the owner of the lot or the subdivider of the land from which the lot was created after the issuance of a building permit for the lot.

**205.2**

No structures, whether attached to the principal structure or not, and, whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall project beyond the setbacks provided in this Ordinance.

**205.3**

In any district, notwithstanding limitations imposed by other provisions of this Ordinance, a single lot of record at the effective date of adoption of this Ordinance may be built upon subject to the following conditions:

- A. Such a lot must be in a separate and distinct ownership from adjacent lots on said date. This provision shall apply even though such lots fail to meet the minimum requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions of the lot shall conform to the requirements for the district in which the lot is located. Variance of setback requirements shall be obtained only through action of the Board of Adjustment and Appeals.
  
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage are in single ownership at the time of the passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an individual parcel for the purpose of this Ordinance and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this Ordinance.

**205.4**

In the IR and IB districts, notwithstanding limitations imposed by other provisions of this Ordinance, a lot containing at least 20,000 square feet, as shown on a plan of a subdivision duly approved and recorded in the Cumberland County Registry of Deeds on or before July 31, 1975, and

irrespective of whether said lot was in separate and distinct ownership from adjacent lots on said date, may be built upon subject to the conditions in sec 204.1.C, D, and E, or sec. 204.3.C, D, and E. [Amended Sept. 13 2008]

### **205.5**

No lot shall be reduced in size by conveyance of a portion thereof unless both of the following standards are met: (a) the remaining land is in conformance with the minimum lot size provided for the zoning district in which that land is located, and (b) unless the land conveyed is in conformance with said minimum lot size, or is conveyed to the owner of the abutting property.

## **Sec. 206**

### **SITE PLAN REVIEW**

#### **206.1 Purpose**

The site plan review provisions set forth in this section are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that non-residential construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater; erosion; and sedimentation; protection of the groundwater; protection of the environment; wildlife habitat; fisheries; and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

#### **206.2 Applicability of Site Plan Review**

A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

- A. The construction or placement of any new building or structure for a use identified in Sec. 204 District Regulations, or the construction, placement, or alteration of any telecommunications facility.
- B. The expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area.

- C. The conversion of an existing building, in whole or in part, from a residential use to any non-residential use included in Section 204 District Regulations of this Ordinance.
- D. The establishment of a new use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, and other non-structural nonresidential uses.
- E. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on - or off-site impacts of the use subject to the standards and criteria of site plan review described in Section 206.8.
- F. The construction or expansion of paved areas or other impervious surfaces, including access drives, and parking lots.

### **206.3 Review and Approval Authority**

The Planning Board is authorized to review and act on site plans for both minor developments and major developments as defined below. In considering site plans under this section, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

### **206.4 Classification of Projects**

- A. The Town Administrator shall classify each project as a major or minor development. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest. Major developments are larger, more complex projects for which a more detailed review process and additional information are necessary.
- B. Minor developments shall include those projects involving the construction or addition of fewer than five thousand (5,000) square feet of gross nonresidential floor area or projects involving only the installation of impervious surfaces, or projects involving the conversion of existing buildings or structures from one use to another without enlargement of the gross floor area.
- C. Major developments shall include projects involving the construction or addition of five thousand (5,000) or more

square feet of gross nonresidential floor area, or other projects requiring review which are not classified as minor developments.

## **206.5 Fees**

### **A. Application Fee**

Any application for minor or major site plan review must be accompanied by an application fee set by order of the Board of Selectmen. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, staff review, and similar costs. The fee shall not be refundable.

### **B. Site Inventory and Analysis Fees**

All site plan applications for major developments are subject to Site Inventory and Analysis review. Prior to submitting a site inventory and analysis for a major development, the applicant must pay a processing fee in an amount as set by order of the Board of Selectmen. The fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, staff review, and similar costs.

### **C. Technical Review Fee**

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the municipality's legal and technical costs of the application review. This fee must be paid to the municipality and shall be deposited in an escrow account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review.

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, in the account after the payment by



Town of all costs and services related to the review, provided, however, that where the cost of technical reviews exceeds the amount of monies in the escrow account the applicant shall pay to the Town prior to the issuance of any building permit the amount by which the technical reviews exceed the amount of monies in the escrow account.

#### **206.6 Review Procedures**

The Planning Board shall use the following procedures in reviewing applications for site plan review.

A. Pre-application

Prior to submitting a formal application, the applicant or his/her representative may request a pre application conference with the Planning Board. The pre application conference shall be informal and informational in nature. There shall be no fee for a pre application review, and such review shall not cause the plan or any related application to be a pending application or proceeding under 1 M.R.S. § 302. No decisions on the substance of the plan shall be made at the pre-application conference.

B. Purpose

1. Allow the Board to understand the nature of the proposed use and the issues involved in the proposal,
2. Allow the applicant to understand the development review process and required submissions,
3. Identify issues that need to be addressed in future submissions, and
4. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

C. Site Inspection

The Board may schedule a site inspection if deemed necessary, and offer guidance on any requests for waivers and variations from the submission requirements.

A written notice for such site inspections shall be posted at the Town Office and published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven (7) days prior to the site

inspection. Notice shall also be sent by first class mail to all property owners of record within five hundred (500) feet of the parcel on which the proposed development is located.

D. Information Required

There are no formal submission requirements for a pre application conference. However, the applicant should be prepared to discuss the following with the Board.

1. The proposed site, including its location, size, and general characteristics,
2. The nature of the proposed use and potential development,
3. Any issues or questions about existing municipal regulations and their applicability to project, and
4. Any requests for waivers from the submission requirements.

E. Application Submission and Review Procedures

1. Minor Development Submission Procedure

Projects classified as minor developments shall go through a simplified review process. Applicants shall not be required to submit a site inventory and analysis and may proceed directly to preparing and submitting a formal site plan review application including the development plan and supporting documentation meeting the submission requirements. This material must be submitted to the Planning Board. The Planning Board shall have the authority to waive any review standards if it finds they are inapplicable to a minor site plan application.

2. Major Development Submission Procedure

- a. Applicants with projects classified as major developments must submit a site inventory and analysis for Planning Board review. This review must be completed prior to the preparation and submission of a site plan review application and supporting documentation. The Board shall review the site inventory and analysis with the applicant and shall authorize the submission of the formal application when the site analysis is complete. The

site inventory and analysis must be submitted to the Planner.

- b. Upon receipt of a site inventory and analysis, the Town Administrator shall give a dated receipt to the applicant. Within thirty (30) days of the receipt of a site inventory and analysis submission for a major development, the Town Administrator shall review the material and determine whether or not the submission is complete. If the submission is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional material required to make the submission complete, and shall advise the applicant that the application will not be reviewed until the additional information is submitted. When the submission is determined to be complete, the applicant shall be notified in writing of this finding and the item placed on the agenda for informal review by the Board.
  - c. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. A written notice for such site inspections shall be posted at the Town Office and published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven (7) days prior to the site inspection. Notice shall also be sent by first class mail to all property owners of record within five hundred (500) feet of the parcel on which the proposed development is located.
  - d. Within forty-five (45) days of the finding that the site inventory and analysis submission is complete, the Board shall complete its review of the submission and notify the applicant in writing of its findings.
3. Site Inventory and Analysis Review Procedure (Major developments only)

The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board. The parties identified in section 206.6.E.4.a below shall be notified of the time, date, and place of the Board meeting at which the site inventory and analysis will be reviewed. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application. The Board shall also act on any requests for waivers.

4. Site Plan Application Review Procedure  
(Minor and Major Developments)

- a. Upon receipt of a formal site plan review application, the Town Administrator shall give a dated receipt to the applicant and shall notify by first-class mail all property owners of record within five hundred (500) feet of the parcel on which the proposed development is located. The determination of the names and owners shall be based upon the records of the local Assessor's records. The notice shall specify the location of the proposed development and provide a general description of the project. Written notice of the pending application shall be mailed to a newspaper or newspapers in general circulation and posted at the Town Office.
- b. Within thirty (30) days of the receipt of a formal development review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional materials required to make the application complete, and shall advise the applicant that the application will not be reviewed until the additional information is submitted. Failure to submit the additional information within six months shall be deemed an abandonment of the application.

- c. As soon as the application is determined to be complete, the applicant shall be notified in writing of this finding. The notification requirements of subsection (4) below shall be met and the item placed on the agenda for substantive review within thirty (30) days of this finding.
- d. The Planning Board shall give written notice of the date, time, and place of the public hearing at which the application will be considered, to the applicant, and to those who received notice in section 206.6.E.4.a above. A notice of the hearing shall be posted at the Town Office and published in a newspaper of general circulation in the community at least once, the date of publication shall be at least seven (7) days prior to the hearing.
- e. Failure of any property owner to receive notice under this section for any reason shall not necessitate a new hearing and shall not invalidate any action by the Planning Board.

5. Procedure for Public Hearing of an Application  
(Minor and Major Developments)

- a. The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this ordinance or other municipal ordinances.
- b. The Chair shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Chair shall then allow the members of the Board to ask questions of the applicant and for the applicant to answer those questions. Following Board questions, the Chair shall open the public hearing to the public for statements, information submissions, or questions about the project. At the

close of the public comment period, the Chair shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examine anyone offering testimony on the application. The Chair may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.

6. Procedure for Final Action on an Application (Minor and Major Developments)

- a. The Planning Board shall take final action on said application within thirty (30) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this ordinance.
- b. In issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the standards of approval, performance standards, and other requirements of this Ordinance.
- c. The Board shall notify the applicant, of the action of the Board, including the findings of fact and any conditions of approval.

7. Time Limitations

All time limits provided for in this section may be extended by mutual agreement of the applicant and Board.

**206.7 Site Plan Application Submission Requirements**

A. Submission Requirements for Site Inventory and Analysis (Major developments only)

The site inventory and analysis is intended to provide both the applicant and the Planning Board with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. It is anticipated that this analysis will result in a development plan that reflects

the conditions of the site; those areas most suitable for the proposed use will be utilized, while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the site and an analysis of that information. All submission requirements shall be submitted to the Town Administrator at least twenty-one (21) days prior to the meeting at which it is to be considered. If the application is found to be deficient all additional information must be submitted no later fourteen (14) days prior to the meeting at which it is to be considered. The site inventory and analysis submission must contain, at a minimum, the following information:

1. The names, addresses, and phone numbers of the record owner and the applicant.
2. The names and addresses of all consultants working on the project.
3. Evidence of right, title, or interest in the property.
4. Evidence of payment of the site inventory and analysis fee.
5. Eleven (11) copies of an accurate scale inventory plan of the parcel at a scale of not more than one hundred (100) feet to the inch showing as a minimum
  - a. the name of the development, north arrow, date and scale;
  - b. the boundaries of the parcel;
  - c. the relationship of the site to the surrounding area;
  - d. the topography of the site at an appropriate contour interval depending on the nature of the use and character of the site;
  - e. the major natural features of the site and within two hundred (200) feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats or other important natural features;

- f. existing buildings, structures, or other improvements on the site;
  - g. existing restrictions or easements on the site;
  - h. the location and size of existing utilities or improvements servicing the site;
  - i. a class D medium intensity soil survey; and
  - j. if a private sewage disposal system will be used, a suitable location for a system.
6. Eleven (11)) copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
  7. Eleven (11) copies of any requests for waivers from the submission requirements for the site plan review application.

**B Submission Requirements for Site Plan Review Applications (Minor and Major developments)**

Applications for site plan review must be submitted on application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Town Administrator. Applications for major developments will not be received until the review of the site inventory and analysis is completed. All submission requirements shall be submitted to the Town Administrator at least twenty-one (21) days prior to the meeting at which it is to be considered. If the application is found to be deficient all additional information must be submitted no later fourteen (14) days prior to the meeting at which it is to be considered. The submission must contain at least the exhibits and information specified in this section, unless specifically waived in writing.

1. All applications for site plan review must contain the following information:



- a. a fully executed and signed copy of the application for development review;
- b. evidence of payment of the application and technical review fees; and
- c. eleven (11) copies of written materials plus fifteen (15) sets of maps or drawings containing the information listed in Sections 206.7.B.2, 3, 4, 5, and 6 below. The maps or drawings must be at a scale sufficient to allow review of the items listed under approval criteria: forty (40) feet to the inch is preferred, but in no case shall the scale exceed one hundred (100) feet to the inch for that portion of the tract of land being proposed for development.

2. General Information (Minor and Major developments)

- a. record owner's name, address, and phone number and applicant's name, address and phone number, if different;
- b. the location of all required building setbacks, yards, and buffers;
- c. names and addresses of all property owners within five hundred (500) feet of any and all property boundaries;
- d. sketch map showing general location of the site within the municipality based upon a reduction of the tax maps;
- e. boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time;
- f. the tax map and lot number of the parcel or parcels on which the project is to be located;
- g. a copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant;

- h. the name, registration number and seal of the person who prepared the plan, if applicable; and
- i. evidence of the applicant's technical and financial capability to carry out the project as proposed;

3. Existing Conditions Plan (Minor and Major developments)

- a. zoning classification(s), including overlay districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district;
- b. the bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries;
- c. location and size of any existing culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting streets or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow;
- d. location, names, and present widths of existing public and/ or private streets and rights - of-way within or adjacent to the proposed development;
- e. the location, dimensions and ground floor elevation of all existing buildings on the site;
- f. the location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site;
- g. location of intersecting roads or driveways within two hundred (200) feet of the site;

- h. the location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/ or archaeological resources, together with a description of such features;
  - i. the direction of existing surface water drainage across the site, and any off-site drainage facilities that will be used;
  - j. the location, front view, dimensions, and lighting of existing signs;
  - k. location and dimensions of any existing easements and copies of existing covenants or deed restrictions; and
  - l. the location of the nearest fire hydrant or other water supply for fire protection.
4. Proposed Development Activity (Minor and Major developments)
- a. estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed;
  - b. the direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties;
  - c. provisions for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities;
  - d. the location, dimensions, and materials to be used in the construction of proposed driveways, parking

and loading areas, and walkways and any changes in traffic flow onto or off-site;

- e. proposed landscaping and buffering;
- f. the location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site;
- g. location, of proposed signs together with the method for securing the sign;
- h. location and type of exterior lighting;
- i. the location of all utilities, including fire protection systems;
- j. a general description of the proposed use or activity;
- k. an estimate of the peak hour and daily traffic to be generated by the project; and,
- l. stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions.

5. Additional Submission Requirements for Major Developments

In addition to the information required for all applicants, an application for a major development must contain eleven (11) copies of the following information:

- a. a narrative and/ or plan describing how the proposed development plan relates to the site inventory and analysis;
- b. a grading plan showing the existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine; and
- c. a stormwater drainage and erosion control program showing:

1. the existing and proposed method of handling stormwater runoff;
  2. the direction of flow of the runoff, through the use of arrows;
  3. the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
  4. engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency; this is required only if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces being proposed; and
  5. methods of controlling erosion and sedimentation during and after construction.
- d. A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.
  - e. The name, registration number, and seal of the architect, engineer, landscape architect and/ or similar professional who prepared the plan.
  - f. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone and any other utility services to be installed on the site.
  - g. A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.
  - h. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project

or expansion will provide parking for fifty (50) or more vehicles or generate more than one hundred (100) trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generator manual of the Institution of Traffic Engineers.

- i. Cost of the proposed development and evidence of the applicant's financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed or available, and individual's or institution's interest in financing the project or in the form of a letter from a certified accountant or annual report indicating that the applicant has adequate cash flow to cover anticipated costs.

#### 6. Waiver of the Submission Requirements

The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre application conference or at the initial review of the application if no pre application conference is held. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria. The application must contain eleven (11) copies of all waiver requests as part of the application.

### **206.8 Approval Standards and Criteria**

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

#### A. Utilization of the Site

Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife

habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

**B. Traffic Access and Parking**

Vehicular access to and from the development must be safe and convenient.

1. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
2. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
3. The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
4. The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
5. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
6. Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes,

traffic directional islands, and traffic controls within public streets.

7. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
8. The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

C. Accessway Location and Spacing Accessways must meet the following standards:

1. Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
2. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

D. Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

1. Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.



2. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
3. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
4. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

E. Parking Layout and Design

Off street parking must conform to the following standards:

1. Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
2. All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
3. Parking stalls and aisle layout must conform to the following standards:

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

4. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
5. Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
6. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

F. Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

G. Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

1. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
2. Unless the discharge is directly to the ocean, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
3. The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.
4. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
5. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
6. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
7. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

#### H. Erosion Control

1. All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept

to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

2. Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

I. Water Supply Provisions

The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a multi-house water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic flows

J. Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. Proposed on-site waste disposal systems must conform to the Subsurface Wastewater Disposal Rules.

K. Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

L. Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following

development, with the standards for safe drinking water as established by the State of Maine.

M. Water Quality Protection

All aspects of the project must be designed so that:

1. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
2. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

N. Capacity of the Applicant

The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

O. Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

P. Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain Management Ordinance.

Q. Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if

such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

R. Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

S. Noise

The development must control noise levels such that it will not create a nuisance for neighboring properties.

T. Storage of Materials

1. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

2. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

3. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

U. Landscaping

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break

up parking areas, soften the appearance of the development, and protect abutting properties.

V. Building and Parking Placement

1. The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.
2. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

W. Fire Protection

The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a “Certificate of Compliance” once the applicant has met the design requirements of the Town’s Fire Protection Ordinance.

**206.9 Limitation on Approval**

Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

## 206.10 Performance Guarantees

### A. Performance Guarantee

The Planning Board may require the posting of a performance guarantee in such amount and form as specified in subsections 1 to 4 below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Attorney.

1. Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
  2. Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
  3. Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such account must require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.
  4. Surety Bonds. The applicant may provide a surety bond given by the contractor to the developer, provided 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 prior written approval of the town.
- B. Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate municipal officials. The respective municipal officials shall inspect all improvements and shall file a report indicating either approval, partial



approval, or rejection of such improvements with a statement of reasons for any rejection.

**206.11 Submission Of As-Built Plans**

Plans must be submitted for any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of improvements as actually constructed on the site. These "as built" plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

**206.12 Minor Changes To Approved Plans**

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal.

**206.13 Appeal Of Planning Board Actions**

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

## SECTION 300 - AQUIFER PROTECTION

### **Sec. 301**      **Purpose**

The purposes of this section are to protect the health, safety, and general welfare of the residents of the Town of Chebeague Island by protecting the quality of the Town's groundwater through the regulation of activities and land use practices.

### **Sec. 302**      **Applicability**

The requirements of Section 300 shall apply to all areas designated as Aquifer Protection (AP) on the official aquifer protection map (Appendix C) dated July 1, 2007 which shall be adopted as part of this Zoning Ordinance and on file in the office of the Town Clerk and filed with the Cumberland County Registry of Deeds. Aquifer Protection areas shall be determined on the basis of the most recent data available from the United States Geological Survey and Maine Geological Survey and other public sources.

### **Sec. 303**      **Regulations**

#### **303.1**

Disposal of hazardous waste materials is prohibited.

#### **303.2**

The following uses shall only be allowed upon a positive finding by the Planning Board that the proposed use, with any conditions imposed by the Board, will not adversely affect the quality of groundwater:

- A. Disposal of solid waste, other than brush or stumps;
- B. Storage of road salt or other de-icing agents;
- C. Animal feedlots which hold more than three (3) animals per acre, or in the case of poultry, which holds more than 150 animals per acre;
- D. Manure piles or storage pits in excess of 50 cubic yards, or in the case of poultry manure in excess of 20 cubic yards; manure shall otherwise be disposed in accordance with the provisions of Sec. 401.1;
- E. Storage of petroleum or other refined petroleum products, with the exception of petroleum products used for household purposes;
- F. Disposal of other leachable materials, with the exception of single-family and two-family residential septic systems;
- G. Extraction of earth materials;

- H. Any residential, commercial, industrial, institutional, or governmental development, including subdivision, which occupies a land or water area in excess of 20 acres.

## SECTION 400 GENERAL REGULATIONS

### Sec. 401 Agriculture

#### 401.1

All spreading of manure shall be accomplished in conformance with *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of tributary streams, or wetlands.

#### 401.2

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 the Ordinance.

#### 401.3

There shall be no new tilling of soil within seven-five (75) feet, horizontal distance, from coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with provision may be maintained.

#### 401.4

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, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan to be filed with the Planning Board.

### Sec. 402 Animals

#### 402.1

Household pets are allowed in all districts.

#### 402.2

Horses may be kept provided that there shall be at least one (1) acre of containment area for the first horse to be kept on the premises, and 10,000 square feet of containment area for each horse thereafter.

**402.3**

Animals other than horses or household pets may be kept for personal use and enjoyment in all districts.

**402.4**

The free range of poultry is prohibited;

**402.5**

No chicken house and no piggery shall be permitted nearer than 100 feet to any property line.

**Sec. 403**

**Backlots**

Single-family dwellings and duplex dwellings shall be permitted on backlots provided they are served by a private street meeting the standards of Sec. 423 of this Ordinance subject to the following provisions:

**403.1**

The creation of a lot which does not have the required lot frontage on a public right-of-way shall require twice the minimum lot size for the district in which it is located, and shall require a right-of-way no less than fifty (50) feet wide, except that in no case shall such private right-of-way be required to be wider than the public street which it intersects. Where a lot is in existence and is provided access by a private right-of-way recorded at the Cumberland County Registry of Deeds prior to the adoption of this ordinance, these provisions shall not apply.

**403.2**

The Board of Adjustment and Appeals may allow a reduction of these standards upon a finding that backlots will be provided with safe access and that the proposed reduction in requirements is otherwise in conformance with Sec. 603.2.E.

**403.3**

Any dwelling unit erected on a back lot shall not be located within two-hundred feet of an existing public street.

**Sec. 404**

**Campgrounds**

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

**404.1**

Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the Highest Astronomical

Tide elevation of a water body shall not be included in calculating land area per site.

**404.2**

The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet, horizontal distance from the Highest Astronomical Tide elevation of tributary streams, or the upland edge of a wetland.

**Sec. 405**

**Clustered and Traditional Residential Development**

**405.1 General:**

In reviewing applications for major subdivision approval involving a residential development consisting of four or more single family residences and/or duplex dwellings in the Island Residential and Island Business zoning districts, the Planning Board shall be authorized to require that the residential development be designed and constructed as a clustered residential development or a traditional residential development, based on the standards and criteria set forth in this Section, except that developments with four or fewer lots may be designed as a clustered development upon a positive finding by the Planning Board that the intent of the Ordinance listed below can be met. Such developments are subject to Section 4.4 of the Subdivision Ordinance. All such residential developments shall conform to the requirements of this Ordinance as well as the Subdivision Ordinance of the Town of Chebeague Island and all other applicable Ordinances of the Town of Chebeague Island and the Town of Chebeague Island Comprehensive Plan. The intention of this section of the Ordinance is to assure that residential developments are designed in such a way as to assure protection of wells and groundwater from contamination; prevent adverse impacts on existing wells on adjoining properties and on wells to be created within the new residential development; avoid septic contamination or interference within the new residential development and with respect to surrounding properties; minimize the cost of constructing and maintaining public utilities and improvements including streets, water lines, sewer lines, electric lines, gas lines, telephone lines, and other utilities; protect and preserve existing farms and farmland; protect areas in resource protection districts; protect, preserve and improve existing recreational areas and trails; protect and preserve sensitive wildlife habitats and other natural areas; and protect and preserve public access to water bodies.

**405.2 Clustered Residential Development:**

Clustered residential developments are residential developments in which groups or clusters of dwelling units may be located on adjoining individual building lots which may be smaller than the required minimum lot size for the zoning district in which they are located but within which

land is set aside as open space so long as the following requirements are satisfied:

- A. Minimum lot size: The minimum lot size for each single family dwelling shall be 60,000 square feet (1.37 ac.) and for each duplex dwelling shall be 80,000 square feet (1.83 ac.).
- B. Setback: Setback requirements for a clustered residential development shall be the same as those required in the zoning district in which the residential development is located.
- C. Frontage: Each lot shall have no less than 75 feet of lot frontage on a street.
- D. Buffering: A buffer area at least 75 feet in depth shall be established between the clustered residential development and abutting tracts or parcels of land and between the clustered residential development and existing streets and roads adjoining or abutting the clustered residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.
- E. Open space. At least 25% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:
  - 1. Active farmland or land adjoining active farmland.
  - 2. An active trail system or which provides a link to an existing trail system.
  - 3. Land which provides a buffer around a sensitive wildlife habitat or other natural area.
  - 4. Land which provides physical or visual access to a water body including the ocean, pond, stream or brook.
  - 5. Land which is in Resource Protection.
  - 6. Land which is suitable for active recreation.

7. Land which abuts or adjoins and existing public open space.
- F. Land set aside as open space may be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:
1. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.
  2. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
  3. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
  4. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.
- G. Some or all of the open space may be dedicated to the Town of Chebeague Island, subject to acceptance by the Board of Selectmen. Any such dedication shall be accomplished by



deeds or other appropriate legal instruments acceptable to the town attorney.

- H. Some or all of the open space may be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

**405.3 Traditional Residential Development:**

Traditional residential developments are residential developments in which the dwelling units are located on individual building lots which conform to the minimum lot size for the zoning district in which they are located. A traditional residential development may but is not required to include land set aside as open space, as provided in Section 7.5 of the Subdivision Ordinance.

**405.4 Net Residential Density:**

The maximum number of dwelling units permitted on the tract or parcel of land proposed for any type of residential development shall be determined by dividing the net residential acreage of the tract or parcel by the zoning district minimum lot size for the zone in which the project is located. In no event shall the number of residential units exceed the density requirement of the zoning district in which it is located.

**405.5 Criteria To Be Considered:**

In determining whether a proposed residential development shall be constructed as a clustered residential development or a traditional residential development the Planning Board shall consider the following criteria as required by 30-A M.R.S. § 4404 and the Town of Chebeague Island Subdivision Ordinance:

**405.6 Standards For Requiring Clustered Residential Development:**

The Planning Board shall require that a residential development be designed as a clustered residential development if the following standards are met:

- A. If the Planning Board determines that adequate wells can be established for each residential unit without risk of contamination or interference with existing wells or groundwater on abutting properties and wells to be located within the proposed residential development;
- B. If the Planning Board determines that adequate on site septic systems can be established for each residential unit without risk

of contamination or interference with existing wells, ground water and septic systems on abutting properties and within the proposed residential development;

- C. If the tract or parcel of land to be developed contains one or more of the following types of open space:
  - 1. Land which is active farmland or which adjoins or abuts active farmland;
  - 2. Land which contains an existing trail system used by the public or which can provide a link to existing trails;
  - 3. Land which contains or adjoins a significant wildlife habitat or other rare and irreplaceable natural area as determined by the Department of Inland Fisheries and Wildlife or the Town of Chebeague Island;
  - 4. Land which may provide physical or visual access to waterbodies including the ocean, ponds, streams, and brooks;
  - 5. Land which contains or adjoins a Resource Protection district as shown on the official zoning map of the Town of Chebeague Island;
  - 6. Land which adjoins or abuts an existing parcel of land which constitutes public open space;
  - 7. Land which is suitable for active recreational activities.

**405.7 Affordable Housing Developments:**

Notwithstanding the foregoing requirements of this section and the requirements applicable to the underlying zoning district, the Town, at Town Meeting, may by contract or conditional rezoning pursuant to Section 606 of this Ordinance, allow a clustered residential development of single family residential lots that is developed as an affordable housing development in any zoning district in which residential uses are permitted and which has access to public water and sewer subject to the following requirements:

- A. "Affordable housing" shall mean residential dwelling units such that the persons eligible to purchase such residential dwellings shall have annual incomes which fall within income guidelines established by the Town of Chebeague Island Board of Selectmen.

- B. Minimum lot size: 10,000 square feet per single family dwelling unit.
  
- C. Setback: Front: 25 feet  
Rear: 30 feet  
Side: 10 feet
  
- D. Frontage: Each lot shall have no less than 100 feet of lot frontage on a street.
  
- E. Buffering: A buffer area at least 75 feet in depth shall be established between the affordable residential development and abutting tracts or parcels of land and between the affordable residential development and existing streets and roads adjoining or abutting the affordable residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.
  
- F. Open space. At least 25% but no more than 50% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:
  1. Active farmland or land adjoining active farmland.
  2. An active trail system or which provides a link to an existing trail system.
  3. Land which provides a buffer around a sensitive wildlife habitat or other natural area
  4. Land which provides physical or visual access to a water body including the ocean, lake, pond, river, stream or brook.
  5. Land which is in Resource Protection.
  6. Land which is suitable for active recreation.

7. Land which abuts or adjoins and existing public open space.
- G. Land set aside as open space may be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:
1. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.
  2. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
  3. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
  4. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.
- H. Some or all of the open space may be dedicated to the Town of Chebeague Island, subject to acceptance by the Town Meeting. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.
- I. Some or all of the open space be conveyed to a non-profit tax exempt land trust or similar organization for conservation,

passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

**Sec. 406      Multiplex Dwellings**

**406.1      General:**

The conversion of an existing single-family dwelling or duplex dwelling into a multiplex dwelling shall comply with the following standards and the Planning Board shall review a proposed multiplex dwelling development for compliance with these standards:

- A. The number of multiplex dwelling units allowed on a tract or parcel shall be calculated by dividing the net residential acreage of the tract or parcel by the minimum lot area per dwelling unit required by the appropriate zoning district for multiplex development.
- B. On any tract or parcel, the maximum number of attached dwelling units per structure shall be six (6). The distance between the foundations of any two principal structures, shall be no less than the height of the taller of the two buildings, but in no event shall a building separation of less than 25 feet be permitted.
- C. A tract or parcel developed under this Section shall be held either in single or common ownership, and shall have the same amount of lot frontage on a public right-of-way as is required by the underlying District.
- D. Setbacks. The following minimum setbacks are required for front, rear or side yards that adjoin a boundary line of the tract or parcel or a street:
  - 1. Front: The same as in the underlying District except that this shall be twice that required when the tract or parcel has any frontage along a collector street as defined in the Subdivision Ordinance.
  - 2. Side: The same as in the underlying District.
  - 3. Rear: The same as in the underlying District.
- E. A buffer shall be established between the multiplex housing and any dwelling on abutting tracts or parcels, which buffer shall be sufficient to minimize any potential nuisance, including but not limited to headlights, noise, storage areas and solid waste storage. This buffering shall consist of landscaping,

fencing or grading or a combination of some or all of these techniques.

- F. No dwelling unit shall have less than 600 square feet of finished living area, exclusive of common hallways, basements and unimproved attic areas.
- G. The scale and surface area of parking areas, driveways and paved areas shall be compatible with adjacent structures, must be properly screened and must provide for parking in accordance with the requirements of Sec. 420 of this Ordinance.
- H. Open Space. The amount of open space that shall be required shall be required shall be at least 50%.
  - 1. This open space shall be usable for recreational, agricultural or other outdoor living purposes and for preserving natural features including, but not limited to, large trees, tree groves, woods, ponds, streams, glens, rock outcrops, natural plant life and wildlife cover, deer yards, and to the greatest extent possible, shall be contiguous open space. The use of any such open space may be further limited or regulated by the imposition of reasonable conditions at the time of final subdivision approval by the Planning Board where necessary to protect adjacent properties or uses, or the open space itself.
  - 2. If any or all of the open space is to be reserved by the individual unit owners as common open space, each unit owner shall own a fractional interest in the common open space and the developer shall be required prior to final subdivision plan approval to incorporate a homeowners' association consisting of the individual unit owners, which incorporation must comply with the following:
    - a. Proposed covenants shall be placed in each deed from the developer to the individual unit owner, which deed covenants shall require mandatory membership in the homeowners' association, and shall set forth the unit owners' rights, interests, privileges and obligations in the association and in the common open space, including the homeowners association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.

- b. The homeowners' association shall develop a system to levy and collect annual charges against any and all individual lot owners to defray any expense connected with the maintenance of common open space and any recreational facilities located therein, and this system shall be described in said deed covenant or by some other legal instrument made binding upon the individual unit owner and running with the land.
  - c. The developer shall maintain control of the common open space and be responsible for its maintenance until 75% of the multiplex dwelling units in the subdivision have been sold, at which time, the homeowners' association shall be responsible for such maintenance, and this obligation shall be described in said deed covenant or by some other legal instrument made binding upon the individual dwelling unit owner and running with the land.
  - d. All such proposed deed covenants and other legal documents pertaining to common open space shall be reviewed by the town attorney, and, if approved by the planning board, shall be recorded in the Cumberland County Registry of Deeds, and included or referred to in the deed to each unit.
- 3. At the option of the Town, some or all of the open space may be dedicated to the Town of Chebeague Island, subject to acceptance by the Town Meeting.
  - 4. Some or all of the open space may be dedicated to a non-profit land trust for conservation, passive recreation purposes or active recreation purposes.
  - 5. Any dedication under subsection 406.1.H.3 or 406.1.H.4 above must be made through appropriate legal instruments, reviewed by the Town Attorney.
  - 6. The open space(s) shall be shown on the subdivision plan with appropriate notation on the face thereof to indicate that it shall not be used for future buildings or structures.

7. All legal documents required under this subsection must be submitted with the final subdivision plan application.

**Sec. 407**

**Conversions**

**407.1 Accessory Apartments**

Any single-family dwelling or an existing accessory structure, which is either attached or detached, to the dwelling may be altered or expanded to include one apartment unit subject to the approval of the Board of Adjustment and Appeals as a special exception, and in accordance with the following standards:

- A. The unit to be added shall include no more than one bedroom and shall not exceed 40% of the total living area of the building;
- B. The board may waive the lot size requirements, provided that the Plumbing Inspector indicates adequate capacity and conformity with the State Plumbing Code; but in no case shall such conversion be allowed on a lot smaller than twenty thousand (20,000) square feet.
- C. This provision shall not prohibit the conversion of a single-family dwelling to a duplex or multiplex dwelling or the conversion of a duplex dwelling to a multiplex dwelling, so long as said conversion complies with all district and other zoning standards, including, but not limited to the minimum lot size per dwelling unit.
- D. An accessory apartment may be constructed in a detached accessory structure provided that the lot standards, and the setback requirements from the single-family dwelling to the accessory structure, for the district in which it is located cannot be met for each structure. The parcel on which the single-family dwelling and the detached accessory structure are located cannot be split so that each structure is on a separate parcel.

**407.2 Manor Houses**

Any single family dwelling with no less than six thousand (6,000) square feet of living area may be converted to a multi-family structure with the approval of the Board of Adjustment and Appeals as a special exception, subject to the following conditions and any additional conditions imposed by the Board of Adjustment and Appeals to assure that said conversion will have no adverse impact on the neighborhood:



- A. The conversion of a manor house, as defined, into a multi-family structure shall be deemed a subdivision and subject to final approval of the Planning Board in accordance with the Subdivision Ordinance, after special exception approval has been granted by the Board of Adjustment and Appeals;
- B. The number of units allowed shall be based on the minimum lot size requirement for the district in which it is located, except that the Board of Adjustment and Appeals may reduce the lot size requirement to no less than twenty thousand (20,000) square feet per dwelling unit as a special exception, upon a finding that the conversion will not have an adverse effect upon the neighborhood as a result of traffic circulation, vehicular access, pedestrian circulation, storm drainage, or appearance;
- C. No manor house shall be converted to a multi-family structure on a lot less than three acres in size;
- D. The minimum floor area for each dwelling unit shall be one thousand (1,000) square feet;
- E. No dwelling unit shall be created on a third floor or higher, except that a dwelling unit on the second floor may continue on to a third floor;
- F. Associated structures of manor houses, such as garages and carriage houses, may be converted to dwelling units, but may not be included in the determination of living area in the manor house.

**407.3 Condominium**

Any structure or property which is converted to condominium ownership in accordance with the provisions of the Maine Condominium Act, regardless of whether there is any physical change in the structure or property, shall be considered a subdivision and subject to the provisions of the Subdivision Ordinance, unless such structure or property has already been approved under the Subdivision Ordinance.

**Sec. 408 Corner Clearance**

No building, structure, or foliage shall be erected or maintained greater than three and one-half (3 1/2) feet above the curb height within an area defined by a line connecting the points twenty (20) feet distant of the intersection of street lines at intersecting streets and roads.

**Sec. 409**

**Day Care Centers and Nursery Schools**

**409.1 Purpose:**

It is the intent of these provisions to allow the location of day care centers and nursery schools in healthy and safe environments in a manner that will not be disruptive to neighborhoods. Such uses should be considered integral components of neighborhood life.

**409.2 Standards for Day Care Centers and Nursery Schools:**

In addition to state requirements and the requirements of any other ordinance, including the special exception and site plan review ordinances, the following standards shall apply to the review of day care centers and nursery schools:

- A. No Day Care Center or Nursery School shall be located on a lot less than twenty-four thousand (24,000) square feet in area.
- B. Day Care Centers and Nursery Schools shall have at least one thousand (1,000) square feet of lot area per child received into the home, including the operator's own children under sixteen (16) years of age.
- C. Day Care Centers and Nursery Schools shall be subject to the provisions of Sec. 7.15 – Sewage Disposal – of the Town of Chebeague Island Subdivision Ordinance. At a minimum, the applicant must present the approval of the Town's local plumbing inspector that the proposed Day Care Center or Nursery School's sewage disposal system can accommodate the proposed use.
- D. There shall be a fifteen-foot setback for outdoor play areas in side and rear yards, which set-back shall be enforced by fencing and/or plantings. Outdoor play areas shall not be permitted in front yards or yards adjacent to a street.
- E. There shall be one (1) off-street parking space for each employee and volunteer worker not living at the site, and the parking area shall be designed to provide a safe location for vehicular ingress and egress and for the loading and unloading of children.
- F. The Planning Board and/or the Board of Adjustment and Appeals may attach additional conditions directly related to screening and buffering, hours of operation, vehicular access restrictions, off-street parking, traffic volume, wastewater disposal, and barriers and other safety devices.

**Sec. 410      Erosion and Sedimentation Control**

**410.1**

Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner to prevent to the maximum extent possible, erosion and sedimentation of surface waters. To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of *Environmental Quality Handbook Erosion and Sediment Control*, published by the Maine Soil and Water Conservation Commission.

**Sec. 411      Extraction of Earth Materials**

**411.1**

Top soil, rock, sand, gravel and similar earth materials may be removed from locations where permitted under the terms of this Ordinance only after the granting of a one year, annually renewable special permit for such operations as may be issued by the Board of Adjustment and Appeals and under such terms and conditions as may be approved and provided for by the Board and as provided for in this Ordinance.

**411.2      Procedure:**

- A. The applicant shall present a site plan with detailed information of the proposed extraction operation as required under Section 206, Site Plan Review, and a written report describing the method of extraction, duration of the operation, traffic generation, measures to be taken to control erosion and stormwater runoff, and other information requested by the Board of Adjustment and Appeals.
- B. The site plan, written report, and fee as required in Sec. 602.4 shall be submitted to the Code Enforcement Officer at least thirty (30) days prior to the next available meeting date of the Board of Adjustment and Appeals, and shall be forwarded to the Planning Board for their review and advisory opinion.
- C. After receipt of the advisory recommendations of the Planning Board and all other required materials, the Board of Adjustment and Appeals shall decide whether, and under what conditions, the proposed extraction operation may be permitted consistent with the provisions of Section 411.3, below:

### 411.3 Standards:

- A. The operation shall be shielded from surrounding property by an adequate buffer area of not less than two hundred (200) feet from the top of the final grade to the property line, except that the Board of Adjustment and Appeals may reduce the buffer area from the minimum requirement of two hundred (200) feet to a minimum requirement of not less than one hundred (100) feet provided that any excavated property remaining will be left in a condition more useful for some future purpose conforming to the district requirements in which the excavation site is located.
- B. An applicant may specifically apply as a part of his application for the excavation and removal of lands to the Board of Adjustment and Appeals for waiver of the requirement of the two hundred (200) foot buffer strip when the protective barrier serves only to separate two existing gravel pits. The Board of Adjustment and Appeals may only grant a waiver from this requirement of the Ordinance if (1) the protective buffer zones exist only between two existing gravel pits, (2) the owner of the respective properties mutually and voluntarily consent to the removal of the buffer zone, and (3) the Board of Adjustment and Appeals find that it shall not have a detrimental effect upon adjoining properties.
- C. Specific plans shall be established to avoid hazards from excessive slopes and/or standing water. In no case may soils be removed or excavated to closer than within five (5) feet of the seasonal high water table as may be determined by a competent authority. Where an embankment must be left upon the completion of operations, it shall be at a slope of not steeper than one (1) foot vertical to three (3) feet horizontal, except that where the required buffer area has been reduced to 100 feet the slope of the edge of the excavation area shall not exceed one (1) foot vertical to four (4) feet horizontal.
- D. No standing water shall be allowed to remain longer than two consecutive calendar weeks unless specifically provided for by the Board of Adjustment and Appeals.
- E. In the case of any excavation to a depth of more than 20 feet below the surface there shall be constructed a substantial fence with suitable gates completely enclosing the property or area in which the excavation is located. No portion of such fence shall be located closer than forty feet to the edge of such excavation.

However, this condition shall not apply in the case of an excavation or removal of lands adding a slope of one foot vertical to greater than 3 feet horizontal.

- F. No excavation shall be extended below the grade of adjacent streets unless a two hundred (200) foot buffer strip shall be provided from the edge of the right-of-way except in cases where a specific condition has been made with the consent of the Board of Adjustment and Appeals and other involved parties such as the Town of Chebeague Island Public Works Director and other property owners for the reconstruction of the right-of-way and street at a different level.
- G. Provision shall be made for the control of stormwater runoff to prevent on-site erosion, and to ensure that stormwater runoff leaves the site at the same location and is not significantly increased.
- H. Sufficient topsoil shall be retained on the site or otherwise provided sufficient to cover all disturbed areas with an average depth of not less than two (2) inches. All disturbed areas resulting from the excavation and removal of lands or soils shall be graded and sloped to conform to the provisions of this Ordinance, reloaded and seeded with grasses indigenous to the area and such trees as the Board of Adjustment and Appeals may require and otherwise restored to a natural condition. In the case of topsoil removal, the upper six inches of topsoil shall be stockpiled and restored to a depth of six (6) inches throughout the site.
- I. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load.
- J. All access roads leading from the extraction site to public ways shall be treated with stone, calcium or other suitable materials to reduce mud and dust.

#### **411.4**

A surety bond shall be posted with the Town Treasurer by the applicant in an amount and form approved by the Board of Adjustment and Appeals with the advice of the Town Administrator sufficient to guarantee performance and conformity with the provisions of this Ordinance and approval of the special permit for the excavation and removal of lands.

**411.5**

The foregoing provisions shall not apply to any lawful use of land for the removal of sand or gravel and the quarrying of stone, existing at the time of adoption of this Ordinance provided, however (a) that no such existing operation shall expand closer to or within two hundred feet to any adjoining property line or to the line of any existing public way, (b) that no such existing operation which may be within two hundred feet to any such adjoining property line or the line of any existing public right-of-way shall be permitted to expand closer to such line or lines, and (c) existing restrictions as may have been previously provided for previous approvals shall continue in full force and effect, and (d) further provided the Board of Adjustment and Appeals shall have the authority to approve applications for the expansion of such existing pits or quarries into such areas, under the same terms and conditions as it may approve applications for new gravel pits and quarries for the excavation and removal of lands pursuant to the provisions of this ordinance.

**411.6**

This subsection shall not apply to (a) extraction necessarily incidental to construction, alteration, excavation, or grading for which a building permit has been issued, (b) to extraction from one portion of a lot for use on another portion of the same lot, or contiguous lot of the same owner, or (c) removal of topsoil from a site that is less than one acre in area during a one-year period.

**411.7**

Violations of this section of the Ordinance shall be punishable by a fine as established by order of the Board of Selectmen. Each day such violations are permitted to continue to exist shall constitute a separate violation.

**Sec. 412      Guest Houses**

A guest house may be constructed provided the lot standards and setback requirements for the district in which it is located are met for each guest house.

**Sec. 413      Height Regulations**

Height limitations for all districts shall be thirty-five (35) feet, except that the Board of Adjustment and Appeals may allow a greater height as a variance upon a finding that the proposed height will not adversely affect other property in the same district and neighborhood, that the granting of such approval by the Board will not substantially depart from the intent and purposes of this ordinance where it is consistent with the objectives of the Comprehensive Plan, and is in a scale with its environs. These

regulations shall not apply to silos for the storage of feed crops, nor to steeples.

**Sec 414**      **Home Occupations and Home-Based Occupations**

**414.1**

Any home occupation or home-based occupation may be approved as a special exception by the Board of Adjustment and Appeals if:

- A. The occupation is owned or operated by a member of the family residing within the dwelling unit, and;
- B. In the case of a home occupation, no more than two employees who are not members of the family are employed in the occupation, and;
- B. In the case of a home-based occupation, the number of non-family employees is limited to three, provided that off-street parking is available for all employees, in addition to parking provided for customers, [amended Sept. 13, 2008] and;
- C. Objectionable or unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be detectable beyond the property limits, and;
- E. No traffic in substantially greater volumes than would be normally expected in the neighborhood will be generated, and;
- F. Off-street parking spaces are provided in an amount to be determined by the Board to avoid street congestion, and;
- G. Exterior displays, exterior storage of materials, and exterior indications of the home occupation or home-based occupation, including signs, are inconspicuous.

A home occupation or home-based occupation does not require approval as a special exception if the seven (7) conditions above are met and it does not result in any exterior indications (including, without limitation, any visual, sound, odor, or traffic indications outside of the dwelling or accessory structure) of the existence of the home occupation or home-based occupation, and does not pose any potential threat to public health, safety, or welfare.

**414.2**

The granting of a special exception approval for a home occupation or home-based occupation shall apply to the applicant only while the applicant resides at the property.

**Sec. 415**

**Junk Yards**

Before granting special exception approval for a junk yard, the Board of Adjustment and Appeals shall find that the following conditions have been met:

**415.1**

The proposed junk yard is shown to have no detrimental effect on adjacent land uses;

**415.2**

The proposed junk yard site is not visible from a public road or street;

**415.3**

The proposed junk yard shall be entirely enclosed by a solid wall or fence with access only through solid gates, and such fence or wall shall be kept in good repair and neatly painted;

**415.4**

The contents of the proposed junk yard shall not be placed higher than the fence or wall herein required;

**415.5**

The proposed junk yard is in conformance with the Ordinance and any other ordinances of the Town of Chebeague Island pertaining to the protection of the quality of surface and ground water.

**Sec. 416**

**Manufactured Housing**

Manufactured housing as defined and allowed under this Ordinance to be placed or erected on individual house lots on undeveloped lots where single family dwellings are allowed shall be required to meet the following design standards.

**416.1**

There shall be a pitched roof having a pitch of 4 in 12 or greater covered with roofing shingles;

**416.2**

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, ribbed or corrugated metal or plastic panels;

**416.3**

The minimum horizontal dimension shall be fourteen (14) feet and the minimum floor area shall be seven hundred fifty (750) square feet;

**416.4**

The house will be anchored on a permanent frost wall foundation;

**416.5**

Any fuel storage tanks shall be enclosed. Fuel storage tanks may not be buried [amended Sept. 13, 2008] ;

**416.6**

All plumbing and utility connections shall comply with local, State and National codes.

**416.7**

The unit shall be sited on the lot so that it is within thirty (30) degrees of being parallel to the front property line of the lot (or the chord connecting the two points where the side lot lines meet the front line if the front property line is curved). This requirement shall not apply if the width of the front building face is more than twenty-four (24) feet. The width of the front building face shall include the width of the manufactured housing unit plus the width of any permanent addition; all such additions shall meet the following criteria:

- A. The addition is of a similar architectural design and constructed of similar materials as the manufactured housing unit;
- B. The addition is permanently attached to the unit to create one integral structure; and
- C. The addition is placed on a permanent frost wall foundation.

**416.8**

All disturbed areas of the site, not otherwise revegetated, shall be loamed, fertilized and seeded.

**416.9**

All exterior doors shall be provided with steps of a suitable design and construction to provide all-season access.

Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to adverse impact on adjacent properties.

**Sec. 417 Mobile Home Parks**

**417.1**

Except as otherwise provided below, mobile home parks shall comply with all applicable State laws and municipal ordinances and regulations and shall meet the requirements of the subdivision law. In addition to any other reviews that may be required, any proposed mobile home park development, expansion or amendment shall be reviewed by the Planning Board for compliance with the requirements of this section. No mobile home park development shall be permitted unless the Planning Board finds it will be in compliance with this section.

**417.2 Lot size, width and density**

Notwithstanding the dimensional requirements in Sec. 204 of this ordinance, lots in a mobile home park shall meet the following lot size, width and density requirements.

- A. Lots served by individual subsurface waste disposal systems:
  - 1. Minimum lot size                    20,000 square feet
  - 2. Minimum lot width                100 feet
  
- B. Lots served by a central subsurface waste water disposal system approved by the Maine Dept. of Human Services:
  - 1. Minimum lot size                    12,000 square feet
  - 2. Minimum lot width                75 feet
  
- C. The overall density of any mobile home park served by a central subsurface waste water disposal system shall not exceed one dwelling unit per twenty thousand (20,000) square feet of total mobile home park area.
  
- D. Mobile home park lots located within a shoreland zoning district shall meet the dimensional requirements for that district.
  
- E. The overall area of a mobile home park shall be no greater than the combined area of its mobile home park lots plus:
  - 1. The area required for road rights-of-way;
  - 2. The area required for buffer strips, if any;

3. The area within any setbacks required in the shoreland zoning districts.

**417.3 Lot setbacks**

Notwithstanding the setback requirements in Sec. 204 of this ordinance, lots in a mobile home park shall meet the following lot setback requirements:

- A. For lots twelve thousand (12,000) square feet in area or larger, structures shall meet the following setbacks:
  1. Front setback: 20 feet;
  2. Side setback: 20 feet;
  3. Rear setback: 10 feet.
- B. Notwithstanding sections 417.3.A.1 and 417.3.A.2 above, structures on a mobile home park lot that is adjacent to a public road shall be set back from the public road the same distance applicable to other residential developments.
- C. Notwithstanding 417.3.A and 417.3.B above, mobile home park lots located within a shoreland zoning district shall meet the setbacks for that district.
- D. A minimum twenty (20) foot separation shall be maintained between all manufactured homes in all directions.

**417.4 Lot coverage**

- A. All structures on the lot, including manufactured housing and accessory structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

**417.5 Buffering**

- A. A fifty (50) foot wide buffer strip shall be provided along any mobile home park boundary that abuts land used for residential use if the per-acre density of homes within the mobile home park is at least two times greater than:
  1. The density of residential development on immediately adjacent parcels of land, or
  2. If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable municipal ordinances or State law.

- B. No structures, streets or utilities may be placed in the buffer strip, except that utilities may cross the buffer strip to provide services to the mobile home park.

#### **417.6 Roads**

- A. Streets within a mobile home park that are to be dedicated to the Town for acceptance as town ways shall be designed and constructed in accordance with the standards contained in Sec. 8 of the Town's Subdivision Ordinance;
- B. Streets within a mobile home park that are to be privately owned roads shall be built according to acceptable engineering standards, shall be designed by a professional engineer registered in the State of Maine, and shall meet the following design standards:
  - 1. Right of way width, 23 feet
  - 2. Width of paved traveled way, 20 feet
  - 3. Privately owned roads within a mobile home park that intersect with public ways adjacent to the mobile home park shall meet the following standards:
    - a. The desired angle of intersection shall be 90 degrees, and the minimum angle of intersection shall be seventy-five (75) degrees.
    - b. The maximum permissible grade within seventy-five (75) feet of the intersection shall be 2 %.
    - c. The minimum sight distance shall be ten (10) feet for every mile per hour of posted speed limit on the existing public way. Sight distances shall be measured from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of 3 1/2 feet above the pavement and the height of object 4 1/4 feet. Where the Planning Board finds it necessary, the mobile home park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.
    - d. The centerline of any privately owned road within a park intersecting an existing public way shall be at least one hundred twenty-five (125) feet from the centerline of any other street intersecting that public street.

- C. On-street parking shall be prohibited on privately owned roads in a mobile home park.
- D. No mobile home park lot shall have direct vehicular access onto an existing public way.
- E. Any mobile home park expected to generate average daily traffic of two hundred (200) trips per day or more shall have at least two street connections with existing public ways.
- F. The Planning Board shall require a traffic impact analysis if the mobile home park will generate more than five hundred (500) trips per day.

**417.7 Utilities**

The Planning Board shall not require electrical utilities and telephone lines to be located underground within a mobile home park. A developer may install utilities anywhere within the mobile home park.

**417.8 Lighting**

Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to adverse impact on adjacent properties.

**417.9 Storage**

At least three hundred (300) cubic feet of enclosed tenant storage shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.

**417.10 Administration**

- A. Mobile home park lots must be designated on the subdivision plan for the proposed mobile home park.
- B. A person proposing development or expansion of a mobile home park has the burden of proving that development will not pollute a public water supply or aquifer or violate any State law relating to land development, subdivision or use.
  - 1. Ground water impact assessment. Accompanying the application for Planning Board approval of any mobile home park, which is not served by public sewer, shall be an analysis of the impacts of the proposed mobile home park on ground water quality. The hydrogeologic assessment shall be prepared by a Certified Geologist or Registered

Professional Engineer, experienced in hydrogeology, and shall contain at least the following information:

- a. A map showing the basic soils types.
- b. The depth to the water table at representative points throughout the mobile home park.
- c. Drainage conditions throughout the mobile home park.
- d. Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.
- e. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of one thousand (1000) feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the developments impact on groundwater phosphate concentrations shall also be provided.
- f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within two hundred (200) feet of the mobile home park boundaries.

2. Standards for Acceptable Ground Water Impacts.

- a. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- b. No mobile home park shall result in existing groundwater quality exceeding 50% of the physical, biological, chemical and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations pursuant to 22 M.R.S.A. § 2601 et seq. If existing groundwater quality is inferior to Maine State Drinking Water Regulations, the applicant shall not degrade the water quality any further. This criteria shall apply to the property boundaries existing and proposed water supply wells and springs. If groundwater assessment under Section 2.a above shows that the effect of the development or use of land will be to exceed whichever of these groundwater quality standards applies, that will be the basis for denial of the application.

3. No mobile home park approved under this section may be converted to another use without Planning Board approval and without meeting the appropriate district dimensional and setback requirements. The subdivision plan for the mobile home park development, expansion or amendment shall include the following note:

"This subdivision plan is approved solely as a 'mobile home park' as defined in 30-A M.R.S. § 4358; the area of each lot of this subdivision is lawfully less than the minimum lot size otherwise required under the Town's Zoning Ordinance solely because of its status as a lot within a mobile home park. If any or all of the lots depicted upon this subdivision plan cease to be used as a mobile home park as so defined, this subdivision plan must first be revised to comply with the Town's then-current land use ordinances."

**Sec. 418      Outdoor Swimming Pools**

**418.1**

An outdoor swimming pool shall be any artificially confined body of water greater than twenty-four (24) inches in depth in any portion which may or may not require recirculation and filtering equipment for the maintenance of water quality.

**418.2**

Any swimming pool which is not located entirely within a building shall comply with the following requirements:

- A. The pool shall not encroach upon the setback or yard requirements of the District in which it is located. For the purposes of this regulation, this shall not include aprons or approaches to the swimming pool but shall include all filtering facilities and buildings accessory to the swimming pool as well as the swimming pool itself.
- B. The pool shall be completely enclosed by a fence or a wall not less than four feet in height, with appropriate doors and/or gates, and so constructed as to reasonably prohibit the unsupervised entrance of young children. The wall of a building or the pool itself may be used as a part of such an enclosure. This regulation shall apply to below ground and above ground pools.

- C. These requirements shall not apply to so-called farm ponds or fire ponds.

**418.3**

No outdoor swimming pool shall be constructed until a building permit has been issued by the Code Enforcement Officer.

**Sec. 419 Parking and Loading**

**419.1 Parking**

Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any use is established.

<u>USE</u>	<u>PARKING SPACES REQUIRED (MINIMUM)</u>
Commercial Accommodations	1.2 for each lodging unit
Residential	2.5 per dwelling unit
Church and School	1 per 3 seats in principal assembly room
Private Club or Lodge	1 per 4 members
Theater	1 per 4 seats
Residential Care Facilities	See Sec. 422.3.F.
Professional Offices & Business services, medical clinics and retail business in Commercial Districts	1 for every 250 square feet of gross leasable area
Retail Businesses & Personal Service Establishment	1 for each 180 square feet of gross leasable sales area
Eating & drinking estab.	1 for every 3 seats
Industrial	1 for each 1.2 employees, based on the highest expected average employee occupancy
Funeral Homes	1 for each 75 square feet of floor in slumber rooms, parlors, and individual service rooms
Bed and Breakfast Inn	Residential parking space requirement and 1 per guest bedroom
Day Care Center and Nursery	See Sec. 409.2.E.
School	

**419.2**

The use of any land in a residential district for a parking lot, with or without charge, for the purpose of serving a public beach or other area open to the public may be permitted as a special exception by the Board of Adjustment and Appeals. The Board shall impose such restrictions concerning hours of operation, lighting, landscaping, buffering and traffic circulation so as not to cause undue adverse effect on the use of the other property in the area.



**419.3 Off-Street Loading:**

Logically and conveniently located space for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and industrial uses. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. Off-street loading shall not face residential uses on abutting property without provision for a one hundred (100) foot visual buffer measured from the edge of the access area of dense vegetation sufficient to substantially screen the loading area or a buffer of not less than fifty (50) feet when a solid fence is to be used.

**Sec. 420 Private Airports and Private Heliports**

**420.1**

Recognizing the growing development of and need for private aircraft service in the Town of Chebeague Island, it has been deemed appropriate to adopt provisions which provide for the safe and orderly development of Private Airports and Private Heliports within designated zones of the Town.

**420.2**

Private Airports and Private Heliports, as defined herein, shall be allowed at locations where permitted under this ordinance, subject to approval by the Planning Board under Site Plan Review and subject to the following provisions:

- A. The private airport or private heliport shall be limited to the basing of only one (1) aircraft which shall be owned by and registered to or leased by the airport or heliport owner;
- B. No commercial operations or activities shall be permitted on or from the airport or heliport;
- C. No more than three (3) aircraft shall be permitted at the airport or heliport at any one time;
- D. Flight activities shall be prohibited from one-half hour prior to sunset to one-half hour after sunrise;
- E. Guest usage shall not be considered occasional if the guest aircraft utilizes the airport or heliport for more than seven days in any one month or twelve days in any calendar year;
- F. The minimum runway length of the airstrip shall be one thousand five hundred (1,500) feet;

- G. Operations at airports and heliports shall be restricted to aircraft of gross weights not exceeding three thousand (3,000) pounds and rotorcraft of gross weights not exceeding three thousand five hundred (3,500) pounds;
- H. The minimum setbacks required for parcels containing an airport shall be four hundred (400) foot minimum setbacks to either side of the center line of the runway, and seven hundred fifty (750) foot minimum setbacks from either end of the runway;
- I. Heliports shall require designated landing areas of fifty (50) feet by fifty (50) feet, with setbacks from all sides of the designated landing area of not less than one hundred fifty (150) feet from the property perimeter;
- J. Temporary landing areas for rotorcraft in use for three (3) days or less in any calendar year are exempt from the provisions of this Ordinance;
- K. The Planning Board may request an evaluation of the air safety aspects of the site plan from the Division of Aeronautics of the Maine Department of Transportation;
- L. No airport or heliport, other than a private airport for personal use or a private heliport for personal use, shall be permitted.

**Sec. 421 Public Utilities**

**421.1**

Nothing in this Ordinance shall be deemed to prevent erection, construction, alteration or maintenance in any district of distribution lines of any utility, such as electrical and telephone lines, within the limits of a public way and all necessary statutory permits and licenses have been obtained, and further provided that such transmission or distribution lines, if located in a subdivision requiring the approval of the Planning Board shall be subject to the Subdivision Ordinance as now enacted or as hereafter amended. For the purposes of this section, a telecommunications facility is not considered a public utility.

**421.2**

No underground transmission lines, not located in a public way, shall be permitted in any district unless allowed by the Board of Adjustment and Appeals as a special exception. In addition to the other criteria contained in this ordinance to be followed by said Board in granting or denying

requests for special exceptions, the Board shall take into consideration the effect of the location of the underground lines upon other development in the area, the materials used in the construction of such lines, the size thereof, and the proposed treatment of the surface of the land within the work limits and/or the right of way for such lines.

**421.3**

No above ground transmission lines, not located in a public way, shall be permitted in any district unless allowed by the Board of Adjustment and Appeals as a special exception. In addition to the other criteria contained in this Ordinance to be followed by said Board in granting or denying requests for special exceptions, the Board shall take into consideration the effect the location of the above ground lines upon other development in the area, the materials used in the construction of such lines, the size thereof, and the proposed treatment of the surface of the land within the work limits and/or the right of way for such lines, and also any proposed screening of such above-ground facilities by plantings or otherwise to minimize the distracting visual effects upon users of any public ways in the area and on the users of residential properties in the area.

**421.4**

Accessory structures, including power substations and standpipes, but excluding sewer pumping stations, may be permitted in any district as special exceptions by the Board of Adjustment and Appeals, with review requirements as listed in the district requirements. These structures shall further be subject to site plan review by the Planning Board. District dimensional requirements as regard lot sizes, setback and lot coverage shall not apply to said accessory structures except that as a part of the special exception review, the Board of Adjustment and Appeals shall assure that said facilities are located on a site of sufficient size to provide any screening or other necessary buffering from any residential neighborhood.

**421.5**

Primary, non-accessory buildings of a public utility, including those designed for the production or generation or relay of the service offered by the utility may be permitted in any district where the same is listed as a special exception by the Board of Adjustment. Business offices of a public utility shall not be subject to the provisions of this subsection, but shall be subject to the general requirements of this Ordinance applying to Professional Offices.

**Sec. 422**

**Residential Care Facilities**

Residential care facilities as defined herein shall be allowed where permitted under this ordinance, subject to the following conditions:

**422.1 Review Procedures:**

All residential care facilities shall be subject to approval by the Planning Board under the Site Plan Review provisions of this Ordinance. In addition, all residential care facilities, except for Community Living Uses and for Boarding Care Facilities with eight (8) or fewer residents, must meet the submissions requirements and review standards contained in the Town of Chebeague Island Subdivision Ordinance under Sections 1, 3, 5, 6, 7 (except for Sec. 7.8 and 7.9), 8, 9, 10, and Appendix D; provided, however, such subdivision submissions and review standards may be waived by the Planning Board if otherwise addressed under the Site Plan Review Ordinance. For the purposes of this ordinance, the words "residential care facility" should be substituted for "subdivision" when referring to the Subdivision Ordinance provisions listed above.

- A. Review Fees: Residential care facilities subject to review under the Subdivision Ordinance provisions above shall be assessed review fees as specified by order of the Board of Selectmen.

**422.2 Density and Living Area:**

Except in the Shoreland Zone, the minimum lot size of the zoning district in which the residential care facility is proposed shall apply to the facility as a whole and not to dwelling units, beds, or residents. The maximum size of a facility for a given site shall instead be limited by the requirements contained in Sec. 422.3 below and by applicable Special Exception, Subdivision and/or Site Plan Review standards. Residential care facilities shall in all events provide at least sufficient living area per resident to comply with applicable State licensing or certification requirements.

**422.3 Site and Building Requirements:**

- A. Minimum Lot Size: The minimum lot size shall be that required for the zoning district in which the facility is proposed.
- B. Site Coverage: The facility, as measured by the area of the building footprint of all structures, shall not cover more than 10% of any site's gross acreage. This limitation on site coverage applies only to structures and does not apply to drives, parking areas, walkways, and gardens.
- C. Open Space: At least 50% of the gross site acreage shall be devoted to vegetated open space. The open space may include lawn areas, forest areas, areas with a vegetative cover, and gardens. Open space shall not include areas covered by

structures, parking areas, drives, walkways, swimming pools, tennis courts, or similar improvements.

- D. Setbacks: The setbacks below shall apply to new structures upon which construction commences after the effective date of this amendment, additions thereto, additions to structures upon which construction commenced prior to the effective date of this amendment, parking areas, swimming pools, tennis courts and similar improvements.

**SETBACK SCHEDULE**

(Total Square Footage of All Structures, Existing and Proposed New Structures and any Additions, added Together)

	Greater than 10,000 Square Feet	5,000 to 10,000 Square Feet	Less than 5,000 Square Feet
Front	100 feet	75 feet	Same as otherwise required under Sec. 204 "District Regulations"
Rear	75 feet	75 feet	
Each Side	100 feet	75 feet	

In cases involving expansions of or additions to existing structures which result in an increase in the square footage of a residential care facility sufficient to cause the facility as a whole to become subject to an increased setback requirement pursuant to the foregoing schedule, the existing structure, if in compliance with the applicable setback requirement at the time of its construction, shall be deemed to conform to the setback schedule. The addition or expansion shall be subject to the increased setback requirement except that the Planning Board in a site plan review may grant approval to permit the setback requirement applicable to the original structure to apply to the addition on finding that compliance with the increased setback requirement would cause undue hardship and that the proposed addition or expansion will not result in any noise, glare, dust, fumes, storm water runoff, air or water pollution or similar condition having a detrimental effect on adjoining properties. The Board may, as a condition of such approval, require buffering or screening sufficient to protect the privacy of residents of the facility and adjoining properties.

- E. Height: The maximum building height shall not exceed that which is permitted for residential construction in accordance with the provisions of this ordinance.
- F. Parking: Off-street parking spaces shall be provided in the amount of a minimum of one parking space for each residential unit, except that for nursing homes one parking space for every

four beds and for hospitals one for every three beds shall be provided. In addition, employee parking spaces that equal the highest number of employees on duty during any one shift shall be provided.

- G. Buffering: Adequate landscaping and screening shall be provided in accordance with the standards for landscaping and buffering contained in the Site Plan Review section of this ordinance and, if required under Section 421.4 above, in the applicable sections of the Subdivision Ordinance.

**422.4 Wastewater Disposal:**

All proposed residential care facilities shall be subject to the submission requirements and standards contained in Sec. 7.15--Sewage Disposal of the Town of Chebeague Island Subdivision Ordinance.

**422.5 Occupancy Guarantee and Conversions:**

All residential care facilities shall be licensed or certified by the State of Maine and shall be restricted to occupancy by elderly, handicapped, or ill persons as specified by the license or certification. The conversion of a residential care facility to another use shall require site plan review and approval in addition to any other applicable provisions of this ordinance.

**422.6 Reserved Units:**

A proposed residential care facility shall be required to reserve at least 10% of its units for lower income people. "Lower income" is defined as the full range of incomes at or below 80% of the median household income as determined by the Department of Economic and Community Development. Any applicant seeking a variance from the requirement of this subsection must, in addition to the other variance standards under this ordinance, demonstrate that the Town has achieved a level of 10% or more of new residential development, including units in residential care facilities, based on the most recent five-year historical average of residential development in the Town, which meets the definition of housing for lower income persons as defined herein.

**Sec. 423**

**Street Construction**

**423.1 Private Streets**

Private streets meeting the following standards, as determined by the Code Enforcement Officer, may be used to satisfy the lot frontage requirement for residential uses.

- A. In the IR and IB zones, an applicant shall submit to the Code Enforcement Officer an application for a private right-of-way required to provide access to a structure located within that

zone. The application shall specify the location of the proposed right-of-way, the proposed width, the materials to be utilized in the construction of the road, grades, provisions for drainage, and sight distances at any turning radius. The Code Enforcement Officer shall approve any plan that makes adequate provision for these items, provided that the Fire Chief approves the application for sufficiency of access for emergency vehicles.

**Sec. 424 Sanitary Standards**

**424.1**

All subsurface sewage disposal systems shall be constructed in conformance with the State of Maine Subsurface Waste Disposal Rules, except where the requirements of this section differ from the Rules, the requirements of this section govern.

**424.2**

The minimum setback for underground sewage disposal facilities from the normal high water mark of a waterbody shall be no less than one hundred (100) horizontal feet. Where daily sewage flow exceeds two thousand (2,000) gallons, the minimum setback shall be three hundred (300) feet from any shoreline. All other setback requirements of the Subsurface Waste Disposal Rules shall be met in full. Setbacks from shorelines for all subsurface sewage disposal facilities shall not be reduced by variance.

**424.3**

The following soils are unsuitable for construction of subsurface sewage disposal systems due to their very severe limitations of drainage, flooding and organic nature: Chocorua, Whately, Sebago, Saco-Limerick, Borohemists, Borosaprists, Sulfihemists.

**424.4**

Except for a lot of record in the Cumberland County Registry of Deeds created before May 26, 1987, the minimum separation between any subsurface sewage disposal system and a dug well or spring shall be two hundred (200) feet. An applicant may obtain a waiver of the two hundred (200) foot separation from the Town Plumbing Inspector, if the applicant demonstrates by appropriate engineering data that the proposed action will not adversely affect water quality, but in no event shall separation be less than one hundred (100) feet. For purposes of this section, "not adversely affecting water quality" shall mean that no development or use of land shall result in existing groundwater quality exceeding fifty (50) percent of the physical, biological, chemical and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S. § 601. If existing

groundwater quality is inferior to the State Drinking Water Regulations, the developer or land owner will not degrade the water quality any further. This criterion shall apply to any existing or proposed water supply source. As a minimum, the direction and rate of groundwater movement shall be determined and a projection made by analytical methods of groundwater quality at any well location. Where necessary in order to demonstrate compliance with the above waiver standard, the investigation shall include: soil borings, installing groundwater observation wells, measurement of groundwater elevation at wells, estimation of the rate and direction of groundwater movement, measurement of existing groundwater quality, and identification of existing water supply wells or springs on abutting properties. If the hydrogeologic evaluation and projection of groundwater and/or surface water quality show that the effect of the development or use of land will be to exceed the above groundwater quality standards, that will be the basis for denial of the waiver.

#### **424.5**

In the shoreland zone 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 Highest Astronomical Tide elevation of a water body or the upland edge of a wetland and

#### **424.6**

A holding tank is not allowed for a first-time residential use in the shoreland zone.

### **Sec. 425**

#### **Signs**

Purpose: It is the intent of these regulations to provide for attractive, coordinated, informative and efficient signs with the express purpose of protecting property values, and enhancing the physical appearance of the town.

#### **425.1 Permits and Fees:**

- A. No sign or outdoor display structure shall be erected, attached, suspended or altered, until a permit has been issued by the Code Enforcement Officer to the person or owner in control of the sign. This Ordinance does not apply to temporary or permanent State or municipal signs, historical designation signs, contractor's signs, and temporary signs for the sale of a single-family residence nor to signs relating to or controlling the use of private property. Except as otherwise provided in this Ordinance, a "temporary" sign is one that is erected for six (6) months or less and a "historic designation" sign is a sign



that gives notice that a property is of an historic nature as determined by a State, federal or local government agency.

- B. A person who wishes to erect or have erected a sign within the Town shall make application on a prescribed application and submit same to the Town Office for each location where a sign is desired. A fee as established by order of the Board of Selectmen per sign shall be submitted with each application, except as indicated in Section 425.3.H.
- C. The Code Enforcement Officer shall approve the application within two weeks if it meets the requirements of this Ordinance, otherwise the application shall be denied with a statement of the reason given.
- D. Any person aggrieved by the decision regarding an application may appeal to the Board of Adjustment and Appeals which shall consider said appeal within thirty (30) days or at their next regularly scheduled meeting, whichever event occurs later, and the Board of Adjustment and Appeals decision shall be final.

#### **425.2 General regulations:**

- A. No sign shall be painted upon or otherwise directly affixed to any rock, ledge, or other natural feature except for signs reading "No Trespassing", "No Hunting", or other signs of similar import relating to controlling the use of private property.
- B. No sign shall be erected at any location where, by reasons of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic, or which may be confused with any other traffic signs, signal, or device.
- C. Permanent signs, other than municipal shall not be erected within the right-of-way of any street or approved sight easements, nor shall any sign, including temporary signs, be located so as to constitute a traffic hazard.
- D. All signs and their supporting structures shall be properly maintained to prevent rust, rot, peeling, or similar deterioration.
- E. Whenever a sign shall become structurally unsafe or endanger the safety of a building or the public, the Building Inspector shall order such sign to be made safe or removed. Such order

shall be complied with within ten (10) days of the receipt thereof by the person owning or using the sign, or by the owners of the building or premises on which such sign is affixed or erected.

- F. Any sign which advertises, identifies or pertains to an activity no longer in existence shall be removed by the owner of the sign or the property or person otherwise responsible within thirty (30) days from the time the activity ceases existence. This provision does not apply to seasonal activities during the regular periods in which they are closed.

Where due written notification has been given by the Building Inspector and compliance has not been made within the required thirty (30) day period, the town may cause removal of such sign and charge the cost of such removal to the owner.

- G. No sign shall have visible moving parts or have blinding, moving or glaring illumination or consist of banners, pennants, ribbons, streamers or similar devices.
- H. No animated, flashing, apparently moving, or portable signs shall be permitted.
- I. Signs attached to a principal structure shall not extend above the roof line or the parapet.
- J. No sign shall be closer than fifteen (15) feet to any lot line, or five (5) feet from the edge of any public way as may be determined by a lawful authority or otherwise encroach over in the airspace of any public right-of-way.
- K. No advertising or identification sign, whether permanent or temporary, shall be erected on any premises other than the premises where the activity to which the sign pertains is located, other than those permitted under Section 425.3.B or Section 425.2.O.
- L. A sign may be illuminated provided it identifies the premises on which it is displayed. Illuminated signs may only be lighted during the daylight hours or those hours during which the premises may be opened to the public.
- M. In all residential districts the source of light of an illuminated sign shall be shielded or concealed. In all other districts the use of an illuminated sign with unshielded light shall be subject

to a finding by the Board of Adjustment and Appeals that such a sign will not adversely affect adjacent properties.

- N. Signs which are not visible from a public way are not subject to this Ordinance.
- O. Signs advertising the sale of fresh fruit and vegetable crops are allowed as permitted.

### **425.3 Standards**

- A. The number of permanent or temporary identification signs which may be displayed on any lot in any zone must not exceed three (3).
- B. The number of permanent or temporary advertising signs which may be displayed on any lot only in the Island Business zone must not exceed four (4). Advertising signs in all other zones are prohibited except for signs advertising the sale of real estate and except as may be specifically provided for by the Board of Adjustment and Appeals in its granting of a use and of a corresponding temporary advertising sign by special exception. Signs associated with home occupations or one day sales such as yard/garage/tag sales are permitted in all zones. Such specific provisions shall not violate the intent and purpose of this Ordinance.
- C. No individual sign shall contain more than twenty-five (25) square feet.
- D. No individual sign shall have a height greater than twenty-five (25) feet above the ground level of land upon which it is located and as may be measured from the highest point on the sign.
- E. The top of free-standing signs shall not exceed the height limit of principal structures in the zone where located or twenty-five (25) feet, whichever is less.
- F. The area surrounding free-standing signs shall be kept neat, clean and landscaped.
- G. A temporary sign used to provide directional instructions to a single-family residence that is for sale shall not exceed four (4) square feet in size, shall be limited to four (4) in number at any one time relative to a single house, and shall be so located as

not to interfere with traffic or otherwise cause a public nuisance. Temporary signs for the sale of real estate other than a single-family residence shall not exceed twenty-five (25) square feet in area and a renewal permit shall be required after the expiration of the first six (6) months that such a sign is posted; such renewal permit shall be valid for up to six (6) months.

- H. Temporary political campaign signs which do not individually exceed sixteen square feet may be erected in any zone provided they conform with the conditions of this Ordinance and only after obtaining a permit for the display of such signs from the Code Enforcement Officer and payment of a refundable application fee as established by order of the Board of Selectmen. Applications for such political campaign signs shall be made on forms provided for by the Code Enforcement Officer. If following the election the Code Enforcement Officer finds that all such political advertising signs pertaining to an individual applicant have been removed, he may refund the application fee. No temporary political campaign signs may be erected more than thirty (30) days prior to the election for which such signs pertain. All such temporary political campaign signs shall be removed within 7 days following the election or the deposit fee shall be forfeited to the Town.

#### **425.4 Violations**

Any violation of this Ordinance shall constitute a nuisance and the owner, person or firm having control or use of any premises or sign violating any provisions hereof shall be fined as established by order of the Board of Selectmen for each day such violation is permitted to exist after notification in writing from the Town.

#### **425.5 Minimum Requirements:**

The provisions of this Ordinance are minimum requirements. Whenever the requirements of this Ordinance are at a variance with the requirements of any other lawfully adopted statute, rule, regulation, ordinance, deed restriction or covenant, the most restrictive or that imposing the highest standard shall govern.

### **Sec. 426**

#### **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.

**Sec. 427**

**Telecommunication Facilities**

**427.1 Purpose**

The purpose of this Section is to provide a uniform and comprehensive set of performance standards and requirements to be used by the Planning Board during the site plan review process when it reviews an application for the placement and construction of wireless telecommunication facilities. These standards and requirements are intended to regulate the location and installation of such facilities in order to:

- A. Protect and promote public health safety and welfare from potential problems examples of which are falling ice, telecommunication wave interference and attractive nuisance of towers to children.
- B. Protect and preserve the aesthetic quality of the Town of Chebeague Island as set forth in the goals, policies and objectives of the adopted Comprehensive Plan, examples of which are the protection of scenic vistas, rural character and important historical areas, and the regulations of the Town of Chebeague Island Zoning Ordinance, including but not limited to buffering requirements, by carefully regulating siting and design of wireless telecommunication facilities.
- C. Protect adjacent properties from potential damage from tower failure and falling ice through careful siting regulations and engineering requirements:
- D. Facilitate and encourage the managed development of telecommunications infrastructure while at the same time not unduly restricting the development of needed telecommunications facilities, including important amateur radio installations and

- E. Encourage co-location on existing and future wireless telecommunication towers and maximize the use of existing and approved towers and other existing structures such as utility poles, water towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of new towers needed to serve the community's needs.

#### **427.2 Exemptions**

The following uses are exempt from these regulations:

- A. A ground, building or tower-mounted antenna, operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, which is no higher than thirty-five (35) feet in height, and is not licensed or used for any commercial purpose. The Code Enforcement Officer may permit additional height up to a maximum of seventy-five (75) feet only if, a) engineering documentation substantiating the need for the excess height is submitted to and is acceptable to the Codes Enforcement Officer, and b) the CEO determines that a height in excess of thirty-five (35) feet is technically necessary to successfully engage in this activity.
- B. Radio or television satellite dish antenna for the sole use of the resident occupying a residential parcel on which the satellite dish is located.
- C. A single ground or building-mounted receive-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located, with an antenna height not exceeding thirty-five (35) feet.
- D. A ground or building-mounted citizens band radio or two-way FM antenna including any mast, if the height (post, and antenna and support structure is not on the ground) does not exceed thirty-five (35) feet.
- E. A municipal, public safety or public works wireless telecommunication facility up to a minimum height of 100 feet, the 100 feet height limitation shall not include the height of any building that the TCF may sit upon.

#### **427.3 Submission Requirement**

In addition to all of the relevant site plan review submission requirements listed in Sec. 206, the following submissions shall be required unless waived by the Planning Board.

- A. 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.
- B. Written approval by all applicable state and federal agencies, including but not limited to the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC), including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.
- C. A letter of intent that commits the tower owner and his or her successors in interest to:
  - 1. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant.
  - 2. negotiate in good faith for shared use by third parties that have received an FCC license or permits:
  - 3. allow shared use if an applicant agrees in writing to pay reasonable charges.
- D. Proof of financial capacity to build, maintain, and remove the proposed tower.
- E. An inventory of all of the provider's existing and approved towers, antennas or sites within the Town of Chebeague Island and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application.
- F. 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.
- G. Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.
- H. 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. The submission shall reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

- I. 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.
- J. A visual analysis, which may include photo montage, field mock up, or other techniques, which identifies the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including but not limited to 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 communication service.
- K. Identify any other telecommunication facilities existing or proposed on the site.
- L. Details of all accessory structures including buildings, parking areas, utilities, gates, access roads, etc.
- M. Structural requirements:
  - 1. Telecommunication 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*.
  - 2. The applicant's engineer shall provide documentation showing that the proposed transmission tower meets or



exceeds the most current standards of the American National Standards Institute ANSI/EIA/TIA-222 for Cumberland County relative to wind and 1/2" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.

3. For towers or antennas placed on buildings or alternative tower structures (ATS), the applicant shall also provide written certification that the building or ATS itself is structurally capable of safely supporting the tower or antennas and their accompanying equipment.

#### **427.4 Space and Bulk Standards**

##### **A. Tower Height**

Towers shall not exceed a height of one hundred (100) feet. In the Island Business district, 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 one hundred seventy-five (175) feet.

##### **B. Antennas**

###### **1. Height**

Installing antennas on alternative tower structures is permitted, provided the resulting alternative tower structure height does not exceed one hundred (150) feet.

###### **2. 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 twenty (20) feet 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 twenty (20) foot vertical section of a tower may not exceed twenty-four (24) inches, with no single dish being more than eight (8) inches in diameter and five (5) feet 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 eight (8) feet in length nor two (2) feet in width.

C. Lot Area

A new wireless telecommunications 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.

D. Setbacks

1. All wireless communications towers shall be set back from any lot lines a distance equal to at least 125% of the tower height.
2. Equipment facilities shall meet the required District setbacks.
3. If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.
4. Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of July 1, 2007 may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of July 1, 2007 but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.
5. There shall be setback requirements for antennas mounted on alternative tower structures. The standard District setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

**427.5 Co-Location Requirements**

A. On existing towers

1. Applicants for site plan review for a new wireless communication tower must send written notice 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 existing towers and alternative tower structures and to owners of such towers and alternative structures within a one (1) mile search radius of the proposed tower, stating their needs and/or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new tower must include 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 shall 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 planned use of those towers and alternative tower structures, and the existing and approved towers cannot be reinforced 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 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.

2. Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.
3. Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or alternative tower structure, each tower or alternative tower structure so determined is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines after additional information is provided, that new technology or other considerations enables the existing or approved tower or alternative tower structure to accommodate the equipment.
4. The Planning Department will maintain a list of existing and approved towers and alternative tower structures, including the name and address of owner(s), within the Town of Chebeague Island.

B. Construction of new towers

A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity. (See Section 427.4 on Tower Height).

Prior to the issuance of any building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Code Enforcement Officer executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.

**427.6 Interest Of Telecommunication Entity**

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 which are contracted to locate on the tower must join as applicants.

**427.7 Design Standards**

A. Wireless communication facilities:

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 not be 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 alternate 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 treated to look like a building or facility typically found in the area.
  4. No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. If lighting is required, 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. Manually operated or motion detecting security lighting is permitted.
  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. 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.
- B. Antenna arrays
- Antenna arrays located on an existing structure or alternative tower structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

#### **427.8 Location**

- A. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. For purposes of this section high visibility shall mean areas with no visual clutter such as trees and buildings. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.
- B. 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.

#### **427.9 Additional Standards and Criteria**

- A. 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.
- B. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.
- C.. 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 residential communities, historical areas and open space areas.

#### **427.10 Waiver Provision**

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section 427.3 of this ordinance when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. 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.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed two hundred fifty (250)

feet or may the height of an alternative tower structure be increased to more than two hundred fifty (250) feet.

#### **427.11 Amendments**

Any change to existing, previously approved and proposed towers requires site plan approval as noted in the definitions of major and minor development. Changes include, but are not limited to, modifications to approved height and to approved attachments such as antennas and dishes as well as requests for additional attachments.

#### **427.12 Removal Of Abandoned Wireless Communication Facility**

- A. The owner of a telecommunication facility (TCF) shall notify the Town Administrator 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 TCF or component thereof that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of abandoned TCF or component thereof shall remove it within ninety (90) days of receipt of notice from the Code Enforcement Officer of determination of abandonment.

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.

- C. At the time of approval, the applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond, an irrevocable letter of credit, 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. Such performance guarantee shall be satisfactory to the Town Administrator as to the issuer, form, sufficiency, surety and manner of execution. All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum thirty (30) day notice of cancellation or non-renewal be sent by certified mail to the Town of Chebeague Island.

- D. If there are two or more users of a single tower or TCF, then this provision shall not apply until all users cease using the tower or TCF.
- 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 TCF previously removed requires a new site plan approval.

#### **427.13 Inspections**

- A. Inspection of towers by a Registered Professional Engineer in the State of Maine shall be performed to insure structural integrity, such inspections shall be performed as follows:
  - 1. Monopole towers - at least once every seven (7) 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 (5) 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 (3) 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 Town Engineer within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, upon recommendation by the Town Administrator, 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 Code Enforcement Officer and agreement by the Town Administrator for safety reasons.



- D. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

**Sec. 428**      **Temporary Sawmill Operations**

The Board of Adjustment and Appeals before granting special exceptions in Districts where a temporary sawmill operation is permitted as a special exception shall first determine that the proposed operation will meet the following requirements:

**428.1**

It shall not be located within five hundred (500) feet of any dwelling, school or religious institution.

**428.2**

The operators thereof shall file with the Town of Chebeague Island a bond in an amount to be determined by the Board of Adjustment and Appeals sufficient to ensure that upon conclusion of the operation the appearance of the area will not have an adverse effect upon neighboring properties by reason of abandoned piles of sawdust and/or other debris and ruination of vegetation to cause excessive soil erosion.

**428.3**

The operation of a temporary sawmill shall be completed within a twelve-month period.

**428.4**

The Board may impose such other restrictions as it deems necessary to protect the health, safety, and welfare of the public and adjoining properties.

**Sec. 429**      **Temporary Structures**

Temporary structures including mobile units used in conjunction with construction work shall be permitted only during the period that construction work is in progress. Permits for temporary structures may be issued by the Building Inspector for up to a six month period. Fees for the permit shall be set by order of the Board of Selectmen. The basement of a structure shall not be used for residential purposes before the completion of the total structure. Sanitary facilities shall be provided in construction facilities and shall be completely self-contained with holding tanks.

**Sec. 430**      **Water Extraction and Storage**

Ground water or spring water may be pumped, extracted and/or bulk stored for wholesale commercial purposes at locations where permitted under this ordinance, subject to the approval of the Board of Adjustment and Appeals. Notwithstanding the provisions of Sec. 206.1, the Board of

Adjustment and Appeals shall receive the recommendations of the Planning Board under Site Plan Review, and shall grant final approval if it finds that the proposal with any reasonable conditions, will conform with the additional requirements of Sec. 430.1, below.

**430.1 Conditions of approval:**

- A. The quantity of water to be taken from ground water sources will not substantially lower the ground water table to the detriment of public and private wells on adjacent properties, cause salt water intrusion, cause undesirable changes in ground water flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten years.
- B. The proposed facility will not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
- C. Safe and healthful conditions will be maintained at all times within and about the proposed use.
- D. The proposed use will not cause sedimentation or erosion.
- E. The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no adverse effect on a public water supply will result.
- F. The operator shall make monthly operating records of the quantity of water extracted, stored and removed from the site available to the Board of Selectmen or its designee.

**430.2 The application together with site plan shall include the following additional information:**

- A. Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;
- B. A letter from the Maine Department of Health and Human Services approving the facility as proposed;
- C. Where appropriate, letters from the Maine Department of Transportation when access approval is required, and from the

Department of Environmental Protection when the site location law is applicable or a discharge permit is required;

D. Applicants shall present a written report of a hydrogeologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions; this spring enhancement will not increase the combined spring's catchment capacity by removing more than four (4) cubic yards of earth and not increase this spring's depth by more than four (4) feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and where other improvements do not threaten ground water levels. This report shall include the following information:

1. A map of the aquifer tributary to the spring(s) or well(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
2. The results of the investigation shall establish the aquifer characteristics, the rates of draw down and rebound, the sustainable yearly, monthly (by month), and daily extraction rates, the cone of depression which may develop about the proposed facility, and other impacts on the water table in the tributary aquifer and such other private or public wells within 1000 feet of the proposed extraction facilities shall be assessed.

### **430.3**

Nothing in this procedure, and no decision by the Board of Adjustment and Appeals shall be deemed to create ground water rights other than those rights which the applicant may have under Maine Law.

## **Sec. 431**

### **Water Quality Protection**

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters including any water body, tributary stream or wetland, so as to impair designated uses or the water classification of the water body, contaminate, pollute, or harm such waters or cause nuisances, such as objectionable

shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

**Sec. 432      Individual Private Campsites**

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- A. One campsite per lot existing on the effective date of this Ordinance may be permitted.
- B. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- C. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the Highest Astronomical Tide elevation of water bodies, tributary streams, or the upland edge of a wetland.
- D. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- E. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
- F. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- G. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred -twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

## SECTION 500 NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS

**Sec. 501<sup>2</sup>** The use of any building, structure or land which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued subject to the following provisions:

### **501.1 Non-conforming Buildings**

- A. Repairs and Alterations: A nonconforming building or structure may be repaired, altered, improved, or reconstructed. A non-conforming building or 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 or expand the area of a non-conforming use. The number of square feet of floor area devoted to the nonconforming use may not be increased, unless the Board of Adjustment and Appeals finds that the proposed expansion of the nonconforming use will not adversely affect other property in the same district and neighborhood and that the granting of such approval by the Board will not substantially depart from the intended purposes of this ordinance.
- B. Rebuilding: A nonconforming building or structure, damaged or destroyed by fire, explosion, or act of God may be rebuilt, provided the rebuilding is begun within twelve (12) months of the disaster. The number of square feet of floor area devoted to nonconforming use shall not be increased, unless in the opinion of the Board of Adjustment and Appeals, such increase will not be detrimental to adjacent properties.

### **501.2 Non-conforming Uses**

- A. Extension of Use: A nonconforming use of a building or structure shall not be extended, nor shall a nonconforming use of a part of a building or structure be extended to other parts of the building or structure unless those parts were manifestly arranged or designed for such use prior to the enactment of this Ordinance or of any amendment making such use nonconforming, provided, however, that non-conforming residential uses may be expanded within existing residential buildings or structures or with expansions of such structures that have been permitted.

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<sup>2</sup> Non-conforming lots, not in the Shoreland Zone, are covered in sec. 205.

- B. Where a non-conforming structure is added to or expanded as permitted by Section 501.1.A of this Ordinance, a non-conforming use may not be extended into the area of such addition or expansion. A non-conforming use of land may not be extended.
  
- C. Change of Use: A nonconforming use of a building or structure or piece of land may be changed to another nonconforming use only when the Board of Adjustment and Appeals finds that the new use is not objectionable or detrimental to adjacent properties; provided, however, that a non-conforming use of a building or structure or piece of land located within the shoreland areas may be changed to another non-conforming use only upon a determination by the Board of Adjustment and Appeals that the proposed use has no greater adverse impact upon the subject and adjacent properties and resources than does the existing use.
  
- D. Abandonment: The nonconforming use of any building, structure, or piece of land, which has been abandoned shall not thereafter be resumed. A nonconforming use shall be considered abandoned:
  - 1. When it has been replaced by a conforming use;
  - 2. When it has been discontinued for a period of one year; or, upon the death of the owner when it has been discontinued for eighteen (18) months; or
  - 3. When it has been changed to another nonconforming use pursuant to the approval of the Board of Adjustment and Appeals.
  
- E Change of Use of a Non-conforming Structure:  
 The use of a non-conforming building or structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding each of the criteria listed herein and shall determine whether the proposed use has a greater adverse

impact upon the public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing maritime activities, and other functionally water-dependent uses than the existing use.

## **SECTION 600 - ADMINISTRATIVE PROVISIONS**

### **Sec. 601 Code Enforcement Officer**

#### **601.1**

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. The Selectmen and Town Administrator shall assist the Code Enforcement Officer by reporting to him any new construction or use of land, and apparent violations of this Ordinance.

#### **601.2**

If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

#### **601.3**

The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

#### **601.4**

The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including application submitted, shoreland zoning permits granted or denied, variances granted or denied, revocation actions, revocation of shoreland zoning permits, appeals, court actions, violations investigated, violations found, and fees collected. On an biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

### **Sec. 602 Permits and Fees**

#### **602.1 Building Permit:**

No building or part thereof shall be erected, structurally altered, enlarged, or moved unless a building permit for such action has been issued by the Code Enforcement Officer.

- A. Application for a building permit shall be accompanied by a fee as established by order of the Board of Selectmen.



- B. Each application to the Code Enforcement Officer for a permit to erect a new building or structure or to enlarge or to move an existing one shall be accompanied by a site plan showing the measurements of the lot and of all buildings, yards, and parking spaces, existing and proposed. The intended use or uses of land and building shall be indicated clearly.

**602.2 Use Permit:**

The fee for a use permit shall be established by order of the Board of Selectmen. It shall be paid by the applicant unless a fee for a building permit has previously been paid.

- A. No building or part thereof that has been erected, altered, enlarged or relocated, shall be occupied or used unless a use permit has been issued by the Code Enforcement Officer;
- B. A temporary use permit may be issued by the Code Enforcement Officer for a period of six months during the completion of work, provided that such temporary permits may require such conditions and safeguard as will protect the health, safety, and welfare of the occupants and the public;
- C. The establishment of an office or home occupation within a dwelling shall require a use permit.

**602.3 Demolition Permits:**

The fee for a permit for the demolition of a building or structure shall be established by order of the Board of Selectmen. No permit shall be issued until notice of the application has been posted in the Town Office for at least ten (10) days.

Before a building can be demolished or removed, the owner or agent shall notify all utilities having service connections within the building such as water, electric, gas, sewer, and other connections.

**602.4 Excavation of Land and Removal of Earth Products:**

An application to the Board of Adjustment and Appeals for a permit to excavate land or remove earth products shall be accompanied by a fee as established by order of the Board of Selectmen. Outside consulting fees shall be charged in accordance with Section 608. Upon annual renewal of the application for the excavation of land and the removal of earth products, such application shall be accompanied by an application fee as established by order of the Board of Selectmen.

**602.5**

Any other application for a building permit, and any application for a use permit, shall be accompanied by a description of the intended use or uses of the land and buildings and such further details as the Code Enforcement Officer may reasonably require for a clear understanding of the case.

**602.6**

A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

**602.7 Belated Permits:**

In addition to the cost of a permit, all belated permits will be subject to a fine as established by order of the Board of Selectmen.

**Sec. 603 Board of Adjustment and Appeals**

**603.1**

There is hereby created a Board of Adjustment and Appeals to assist in the administration of this Ordinance. Such Board shall serve as a Board of Appeals pursuant to 30-A M.R.S. § 2691, and may perform such other functions as may be delegated to it by other ordinances.

1. The Board shall consist of five (5) members appointed by the Board of Selectmen. They shall serve without compensation. Appointments to the Board shall be for terms of three years, provided, however, that initial appointments to the Board shall be as follows: two members shall be appointed for terms of three years each, two members for two year terms and one member for a one year term. The Board shall elect annually a Chairman and Secretary from its membership. When there is a vacancy on the Board, the Board of Selectmen shall appoint a person to serve for the balance of the unexpired term.
2. Neither a Selectman, a member of the Planning Board, nor his or her spouse may be a member of the Board.
3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

4. Vacancies may occur by reason of resignation, death or removal from the Town, and, when certified to the Council by a majority of the members of the Board, by failure to attend at least 75% of the Board meetings, regular or special, during any twelve (12) month period. A member may also be removed for cause, after notice and hearing, by the Board of Selectmen. Vacancies shall be filled by the Board of Selectmen for the unexpired term
5. Three members of the Board shall constitute a quorum for the hearing of appeals. If less than a quorum be present, the hearing may be adjourned for a period not exceeding two weeks at any one time, and the clerk to the Board shall in writing notify all members of the next date of the hearing to be rescheduled. Any hearing at which a quorum is present may also be adjourned in like manner by a majority of those present for such time or upon such call as is determined by vote with the same written notification by the clerk. The clerk shall also give notice of adjourned hearing to all other interested parties as shall be directed in the vote of adjournment.
6. The Board shall be guided in its procedures by the provisions of 30-A M.R.S. § 2691, and 1 M.R.S. §§ 401, et seq.

**603.2 The Board shall have the following powers and duties:**

- A. Interpretation. Upon appeal by from a decision of the Code Enforcement Officer where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by the Code Enforcement Officer the Board shall determine whether the decisions of the Code Enforcement Officer are in conformity with the provisions of this Ordinance, and interpret the meaning of the Ordinance in cases of uncertainty.
- B. Variances
  1. Upon appeal from a decision of the Code Enforcement Officer, the Board shall have the power to vary the dimensional requirements of this Ordinance that relate to size and height of structures, setback distances, and size of signs. A variance shall only be granted where such variance will not be contrary to public health, safety or general welfare. For any sign or height variance, the Board must find that a literal enforcement of this Ordinance would result in unnecessary and undue hardship, and that

such hardship arises out of conditions peculiar to the property and is not the result of any action of the applicant or a prior owner. A variance shall not be granted for the establishment or expansion of a use otherwise prohibited. The presence of other non-conformities in the neighborhood or zoning district shall not constitute grounds for a variance.

2. Disability Variance. The Board may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection 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 the time that the person with the disability lives in the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A. § 4553, and the term “structures necessary for access to or egress from the dwelling” is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

C. Special Exception

The Board shall have the power and duty to approve, deny or approve with conditions special exceptions only where such approval is specifically required. Where an advisory report from the Planning Board is required, the Code Enforcement Officer shall refer the application to the Planning Board for its review and recommendations at least thirty (30) days prior to the meeting of the Board of Adjustment and Appeals; however, where site plan or subdivision review is required, the applicant shall apply to the Board of Adjustment and Appeals for special exception approval prior to the submission of a detailed site plan for Planning Board approval, but any conditions imposed by the Board of Adjustment and Appeals shall be binding upon the applicant and upon the Planning Board. The applicant shall have the burden of proving that his application is in compliance with the requirements of this Ordinance. After the submission of a complete application, the Board shall approve a special exception application or approve it with conditions if it makes a positive finding based on the information presented that the

proposed use, with any conditions attached, meets the following standards:

1. The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles and the visibility afforded to pedestrians and the operators of motor vehicles;
2. The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result;
3. The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;
4. The proposed use will be compatible with the uses that are adjacent to and neighboring the proposed location, as measured in terms of its physical size, intensity of use, visual impact, and proximity to other structures and the scale and bulk of any new structures for the proposed use shall be compatible with structures existing or permitted to be constructed on neighboring properties;
5. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or restrict access of light and air to neighboring properties;
6. The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties;
7. The proposed use has no unusual characteristics atypical of the generic use in the neighborhood, which proposed use will depreciate the economic value of surrounding properties;

D. Other Permits

The Board shall also have the power and duty to pass upon the issuing of certain permits or approvals where expressly authorized by this Ordinance.

E. Conditions for Approval

In granting appeals or special exception approvals under this Section, the Board of Adjustment and Appeals may impose such conditions as it deems necessary in furtherance of the intent and purpose of this Ordinance, to assure that there will be no adverse effects on adjacent properties, and to assure that the proposed use or modification will be compatible with other uses in the neighborhood or district. Such conditions for approval may be imposed based upon the following factors:

1. The location of buildings, drives, parking areas, lighting, signs, and other outdoor storage areas;
2. Access to the site for vehicular and pedestrian traffic, and emergency access;
3. Sight distance at access points;
4. Fences, screening and buffering;
5. Landscaping and storm drainage;
6. Garbage storage and snow storage areas;
7. Any other factors relating to the impact of the proposed use on neighboring properties or on the public health, safety and welfare.

The concurring votes of at least three members of the Board shall be required for the approval of any appeal or application.

**603.3 Hearings:**

- A. For all appeals from decisions of the Code Enforcement Officer, and for the consideration of all applications for variances, special exceptions, or other permits requiring approval of the Board, the Board shall hold a public hearing as prescribed herein. At least seven (7) days before the hearing, the clerk of the Board of Adjustment and Appeals shall notify by mail the owners of properties located within five hundred (500) feet of the lot line of the property for which the appeal or application shall be made. In addition to the notice by mail, the clerk to the Board of Adjustment and Appeals shall also post the notice publicly at the Town Office, and cause it to be published, at least seven days before the hearing, in a

newspaper of general circulation in the Town, a notice summarizing the nature of the appeal and the time and place of the hearing.

- B. Failure of a property owner to receive notice by mail shall not invalidate actions taken by the Board. Property owners as listed on the assessor's records shall be deemed to be the persons to whom such notice should be mailed.
- C. The Code Enforcement Officer, unless prevented by illness or absence from the State, shall attend all hearings and shall present to the Board all plans, photographs, or other factual materials which are appropriate to an understanding of matters before the Board.
- D. Written notice of the decision of the Board shall be sent to the appellant and to the Code Enforcement Officer within seven (7) days of the date of the hearing in accordance with 30-A M.S.R. § 2691.

#### **603.4 Appeal Procedure:**

- A. Any person with standing or equity aggrieved by a decision of the Code Enforcement Officer, may appeal such decision to the Board of Adjustment and Appeals within thirty (30) days inclusive of the date of such decision.
- B. Within thirty (30) days of the date of the decision of the Code Enforcement Officer, the appeal shall be entered at the Office of the Town Clerk upon forms to be approved by the Board of Adjustment and Appeals. The appellant shall set forth on said form the ground of his appeal and shall refer to the specific provisions of the Zoning Ordinance, Building Code, State Regulation, Private or Special Law, Case law Statute and Amendments thereto whichever may be involved. The appellant in such case shall pay a fee as established by order of the Board of Selectmen. Outside consulting fees may be assessed as provided in Section 608 only where necessary to protect the public health, safety or welfare.
- C. Following the receipt of any appeal, the Town Clerk shall notify the Code Enforcement Officer and the Chairman of the Board of Adjustment and Appeals of the appeal. The Chairman shall then fix the date for a hearing within thirty (30) days of the appeal. The notice to the Board shall be in order for hearing at a meeting of the Board following by at least

seven (7) days any publication of notice and the mailing of notices as prescribed above.

- D. An aggrieved party may appeal from the decision of the Board to the Superior Court, as provided for by Statute.

**603.5 Successive Appeals:**

After a decision has been made by the Board of Adjustment and Appeals, a new appeal of similar import concerning the same property shall not be entertained by the Board until one (1) year shall have elapsed from the date of said decision, except that the Board may entertain a new appeal if the Chairman believes that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if he believes that a change has taken place in some essential aspect of the case sufficient to warrant a reconsideration of the appeal.

**603.6 Expiration of Rights:**

Rights granted by the Board of Adjustment and Appeals shall expire if the work or change authorized is not begun within six months or substantially completed within one year of the date of vote by the Board.

**603.7 Legal Actions**

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

**603.8 Fines**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A M.R.S. § 4452. Each day that a violation continues is a separate violation.



**Sec. 604 Savings Clause**

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

**Sec. 605 Changes and Amendments**

**605.1**

Amendments to this Ordinance may be initiated by the Planning Board, the Board of Selectmen, by any landowner or his authorized agent or by a person having a written agreement to purchase the property, and submitted to Town Meeting.

**605.2**

Any proposed amendment or change, unless initiated by the Planning Board, shall be submitted to the Planning Board for public hearing and advisory recommendation; public notice of such hearing shall be given by posting at the Town office and publication in a newspaper of general circulation within the Town at least ten (10) days prior to the date thereof, except that public notice of a Planning Board public hearing on a contract or conditional rezoning agreement shall comply with the requirements set forth in 30-A M.R.S. § 4352(8) or its successor.

**605.3**

Amendments to the text or the zoning map shall be consistent with the adopted Comprehensive Plan, if any, and shall be consistent with the purpose of this Ordinance as stated in Sec. 102.

**605.4**

Proposals for change of zone shall include a site plan for the proposed use drawn in compliance with Sec. 206, Site Plan Review, and shall also include a location map showing the existing and proposed zone classification and zone boundaries. If a petitioner fails to begin construction in a substantial manner in accordance with an approved plan within one year from the effective date of the rezoning, the Planning Board shall initiate rezoning to the original zone classification. No request for change of zone shall be considered within one year from the date of any Town Meeting denial of the same request.

**Sec. 606 Contract Zoning**

**606.1**

In consideration of a request for change in zoning classification for a particular property or group of properties under the provisions of Sec. 605, the Town, at Town Meeting, may impose certain restrictions on the use of the property where it finds that such conditions are necessary to protect the public health, safety, and general welfare, and to advance desired land use objectives consistent with the Comprehensive Plan.

**606.2 Standards**

- A. Any zone change adopted pursuant to this section shall be subject to a contractual agreement executed by authorized representatives of both the property owner and the Town, providing for the implementation and enforcement of the conditions of the agreement;
- B. The agreement shall only include conditions which relate to the physical development or operation of the property;
- C. Any zone change permitted under this section shall be consistent with the Comprehensive Plan of the Town and shall establish a rezoned area that is consistent with the existing and permitted uses within the original zones.
- D. The proposed contract zoning agreement shall clearly describe the extent of variation (if any) from the lot standards and permitted uses for the zone in which the parcel is located.

**606.3 Conditions:**

In formulating recommendations to the Town for conditions for approving a zone change under these provisions, the Board of Selectmen may consider the following factors:

- A. Limitations of the number and type of permitted uses of the property;
- B. The height and lot coverage of any structure;
- C. The setback of any structure;
- D. The lot standards.
- E. The hours of operation for the proposed use.

- F. The installation, operation and maintenance of physical improvements such as parking lots, traffic control devices, fencing, shrubbery and screening;
- G. The creation of open space areas or buffer zones;
- H. The dedication of property for public purposes, such as streets, parks, utility systems, and conservation easements.

**606.4 Notice Requirements and Procedures**

- A. In accordance with 30-A M.R.S. § 4352(8) for contract rezoning, the Planning Board shall hold a public hearing in the manner prescribed by this ordinance, shall send a notice of the public hearing to the property owners and all abutters within a five hundred (500) foot radius and shall post the notice at the Town Office.

The notice shall include a map of the property and all the proposed terms, conditions and restrictions of the contract zoning proposal.

- B. The Planning Board shall make a recommendation to the Board of Selectmen and Town on the proposal and its conformance with the Town's Comprehensive Plan and land use goals.
- C. The Board of Selectmen shall hold a public hearing, and following the hearing may recommend that the contract or conditional rezoning application be denied, approved, or approved with modifications at Town Meeting.
- D. The recommendations of the Planning Board and Board of Selectmen are advisory in nature; the Town, at Town Meeting, may act independently of said recommendations.
- E. The term of the contract or conditional rezoning agreement shall be set forth in the contract agreement. Any violation of a rezoning agreement shall be considered a violation of the Town's Zoning Ordinance and shall be subject to enforcement under the provisions of 30-A M.R.S. § 4452. The rezoning agreement may include additional provisions concerning enforcement of specific provisions of the agreement.

**Sec. 607**

**Violations**

**607.1 Warning**

It shall be the duty of the Code Enforcement Officer to warn any person, firm, or corporation of violations of this Ordinance by them. The Code Enforcement Officer shall notify in writing the party responsible for such violation, indicating the nature of the violation, ordering the action necessary to correct it, and informing the party of their right to seek a variance or other relief from the Board of Adjustment and Appeals.

**607.2 Enforcement Actions**

When the above action does not result in the correction or abatement of the violation, the Board of Selectmen, upon notice from the Code Enforcement Officer, shall institute or cause to be instituted in the name of the Town, any and all actions legal and equitable, that shall be appropriate or necessary for the enforcement of the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines and attorney's fees without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

**607.3 Penalties**

Any person, firm or corporation, having been issued a building permit for, or being the owner or occupant of, or having control or the use of, or being engaged in the construction, alteration or repair of, any building or land or part thereof, found to violate any of the provisions of this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as established by order of the Board of Selectmen. Each day such violation is permitted to exist after notification thereof by the Code Enforcement Officer shall constitute a separate offense.

**Sec. 608**

**Outside Consulting Fees**

Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise specified by law, the Town shall assess a fee to cover one hundred (100) percent of its costs for outside engineering, planning, legal and similar professional consulting services. Such fees shall be subject to the following limitations:

**608.1**

They must be expressly provided by ordinance;

**608.2**

The ordinance must require review which is beyond the expertise of Town staff members;

**608.3**

They must be reasonable in amount based upon the time involved and the complexity of the review;

**608.4**

The results shall be available for public review, but shall be deemed to have been made solely for the benefit of the Town and shall remain its property;

**608.5**

They shall be assessed for the privilege of review and so be payable without regard to their results or the outcome of the application;

**608.6**

Any dispute, regarding the application of this section or the amount required to be paid either in advance or upon completion, may be appealed in writing within 10 days to the Town Administrator who may, after due notice and investigation and for good cause shown, affirm, modify or reverse the disputed decision or reduce the amount assessed. Until the Town Administrator has resolved the dispute, no portion of the project review for which the consulting fee is in dispute may go forward unless the applicant has paid or otherwise made satisfactory provision therefore, and no portion of the project review may go forward; and

**608.7**

Where the amount of such fee may exceed \$1,000, reasonable provision must be made in advance to guarantee payment. If the balance in the special account shall be drawn down by 75%, the Town shall notify the applicant, require that an additional amount be deposited to cover the remaining work, and no portion of the project review, for which the additional consulting fee is required, may go forward unless the applicant has paid or otherwise made satisfactory provision therefore. The Town shall continue to notify the applicant and require an additional amount be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any excess amount deposited in advance shall be promptly refunded after final action on the application.

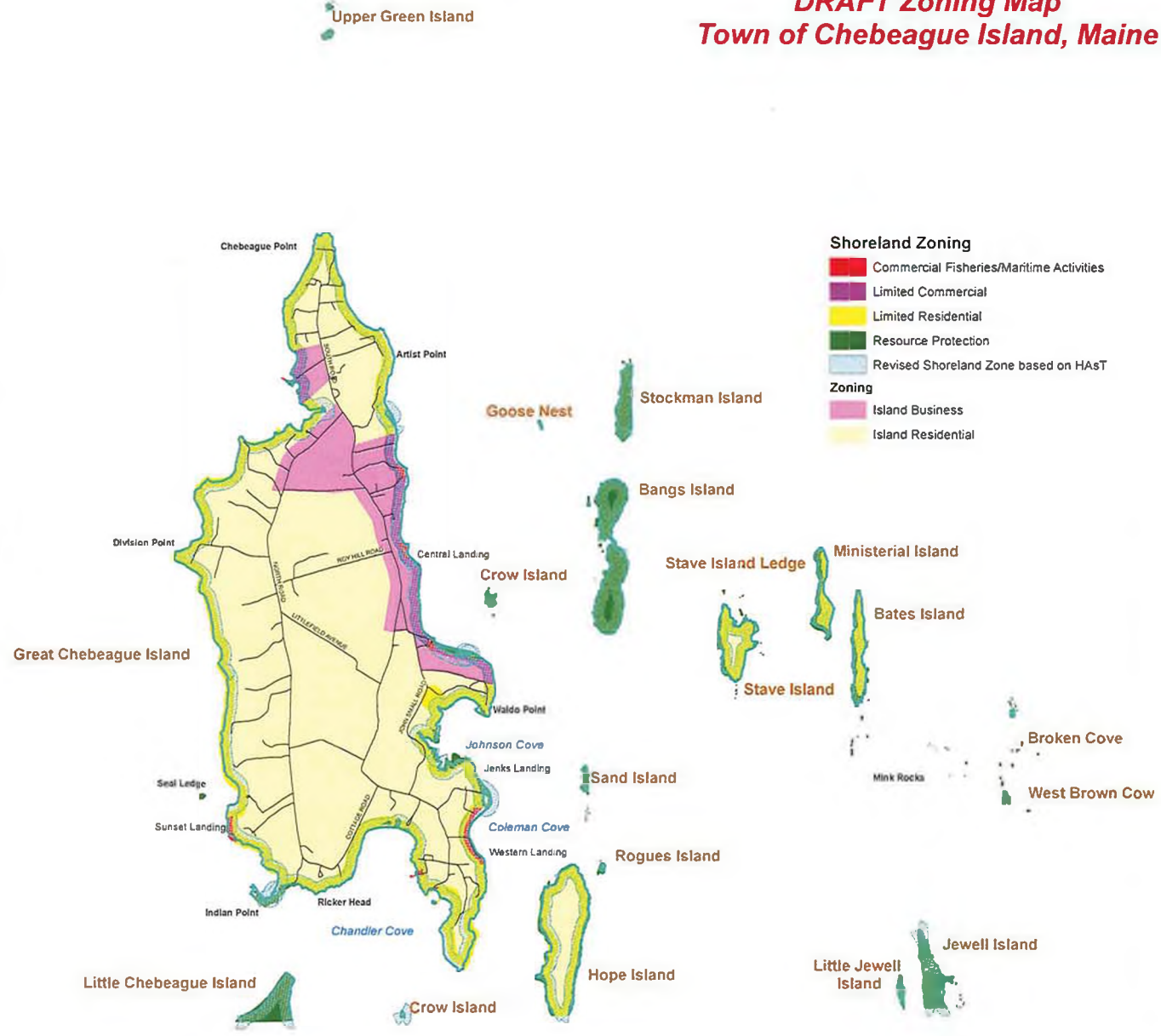
This section shall be administered initially by the Town employee or board responsible for enforcing the ordinance under which review is

sought. If any person, or any entity or corporation in which said person is a principal owes the Town any amount for fees assessed under this section for any project under this ordinance or the Subdivision Ordinance, such person shall not be issued any building permit or certificate of occupancy, or have a subdivision plat released for any other building or development in Town until all such outstanding amounts have been paid in full. An appeal under this section may be brought to the Board of Adjustment and Appeals. No building permit or certificate of occupancy may be issued, nor subdivision plat released for recording until all fees hereunder have been paid in full.

**Sec. 609      Effective Date**


This Ordinance shall take effect immediately upon its adoption by the Town Meeting, unless otherwise provided at said Town Meeting.


# DRAFT Zoning Map Town of Chebeague Island, Maine



Note: The depiction of the Shoreland Overlay Districts on the Official Zoning Map for the Town of Chebeague Island are merely illustrative of their general location. The boundaries of these districts shall be determined by the measurements of the distance indicated on the map from the Highest Astronomical Tide of the water body or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map.

All inhabited islands are included in the Aquifer Protection District.

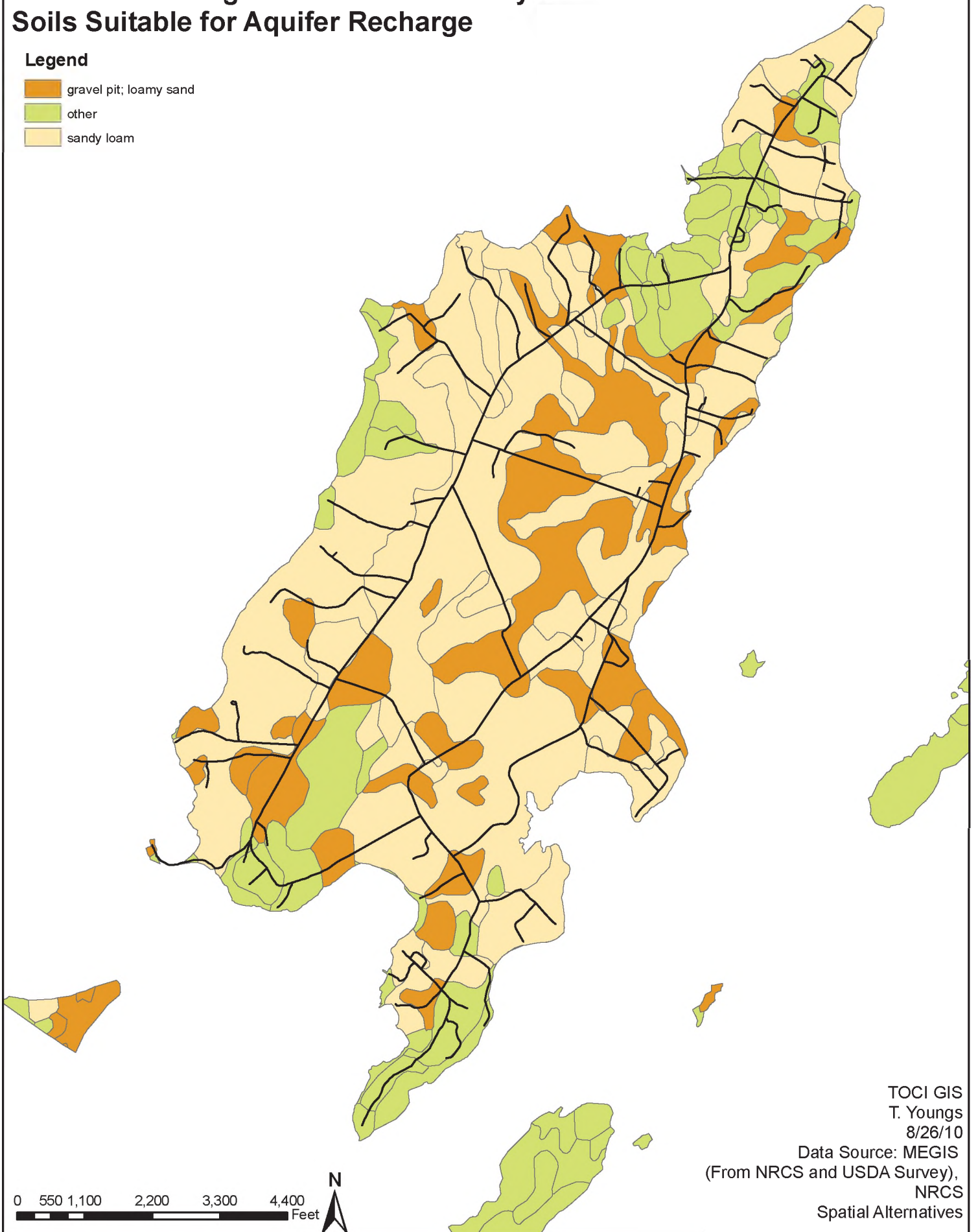
Map Prepared by  
  
 Spatial Alternatives  
 1000 Main Street  
 Portland, ME 04101  
 Phone: 603.761.1111  
 Fax: 603.761.1112  
 Email: info@spatialalternatives.com



# Town of Chebeague Island Soils Survey-- Soils Suitable for Aquifer Recharge

## Legend

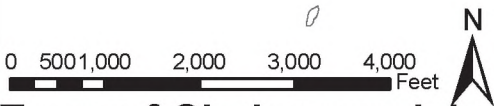
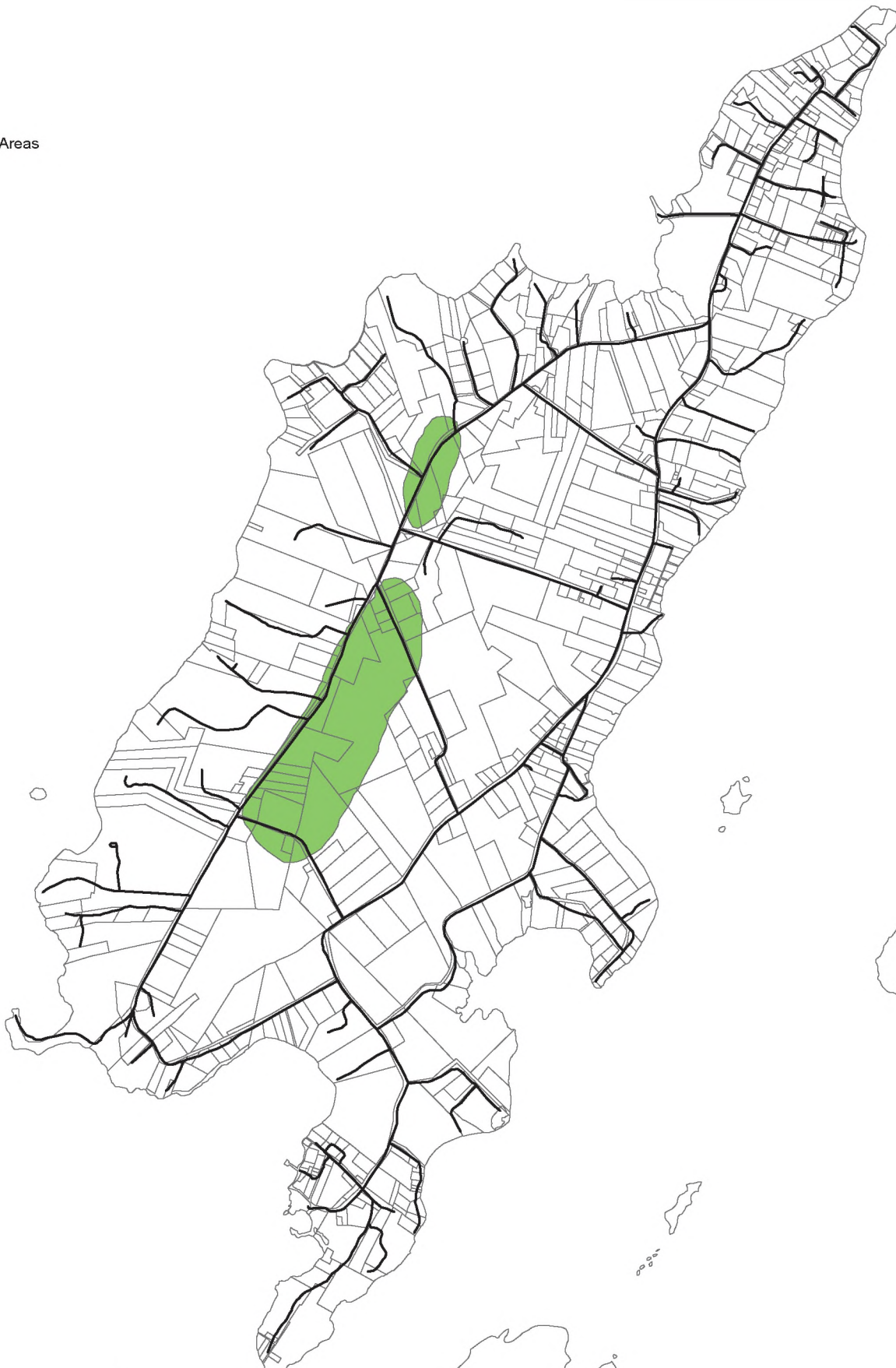
- gravel pit; loamy sand
- other
- sandy loam





**Legend**

- Roads
- parcels
- Recharge Areas



**Town of Chebeague Island  
Aquifer Recharge Areas (1992 Study)**

TOCI GIS  
T. Youngs  
9/09/08  
Data Source: Spatial Alternatives,  
Sevee and Maher Inc.